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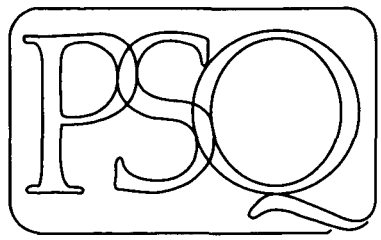

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THE JOURNAL OF PUBLIC AND INTERNATIONAL AFFAIRS

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From the Editor:

In this issue . . .

ROBERT JERVIS argues that despite some successes, the Bush Doctrine cannot be sustained because it has many internal contradictions, requires more sustained domestic support than is possible, makes excessive demands on intelligence, places too much faith in democracy, and is overly ambitious. It will, however, be difficult to construct a replacement foreign policy.

DEMETRIOS JAMES CARALEY discusses the major features critical to the working of our democratic institutions: free elections, separation of powers with checks and balances, and government limited by constitutional guarantees. He looks at some evidence that suggests our democracy may be shifting to an "elective despotism" of the majority—something that Jefferson declared "was not the government we fought for."

SCOTT KENNEDY analyzes China's growing use of antidumping regulations to protect its domestic industry. He finds that the accused foreign firms' surprising victories are due not to the existence of liberal Chinese political elites or an impartial Chinese bureaucracy, but rather are the result of lobbying by foreign companies and their Chinese customers. Globalization generates powerful pro-liberal non-state forces even in authoritarian states.

PETER TRUBOWITZ and NICOLE MELLOW examine the electoral conditions associated with bipartisanship in Congress over the last century of American politics. They challenge the widely held view that bipartisanship is above politics and show that bipartisanship is just as driven by electoral imperatives as partisanship. They argue that the polarization of political parties combined with sluggish economic conditions and the war on terrorism challenge the future of bipartisanship.

TUOMAS FORSBERG and GRAEME P. HERD assess the role that the Russo–Chechen conflict has played in shaping EU relations with Russia. They argue that the EU sacrificed coherent and systematic support of its own foreign policy agenda in order to maintain stable relations with Russia.

ORIN KIRSHNER argues that America's promotion of an open, international trading system has required a fundamental reorganization of the foreign trade policy–making process. The reorganization has led to the subordination of domestic concerns to issues of global economic management and to the centralization of state power. He calls this phenomenon the "triumph of globalism."

DEMETRIOS JAMES CARALEY

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Why the Bush Doctrine Cannot Be Sustained

ROBERT JERVIS

With the reelection of George W. Bush, the apparent progress of democracy in Iraq and other countries in the Middle East, and the agreement of allies that Iran and North Korea should not be permitted to gain nuclear weapons, the prospects for what can be called the Bush Doctrine seem bright. I believe this impression is misleading, however, and politics within the United States and abroad is more likely to conspire against the course that Bush has set.

The Bush Doctrine, set out in numerous speeches by the President and other high-level officials and summarized in the September 2002 "National Security Strategy of the United States," consists of four elements.[1] First and perhaps most importantly, democracies are inherently peaceful and have common interests in building a benign international environment that is congenial to American interests and ideals. This means that the current era is one of great opportunity because there is almost universal agreement on the virtues of democracy. Second, this is also a time of great threat from terrorists, especially when linked to tyrannical regimes and weapons of mass destruction (WMD). A third major element of the Bush Doctrine is that deterrence and even defense are not fully adequate to deal with these dangers and so the United States must be prepared to take preventive actions, including war, if need be. In part because it is difficult to get consensus on such actions, and in part because the United States is so much stronger than its allies, the United States must be prepared to act unilaterally. Thus the fourth element of the Doctrine is that although the widest possible support should be sought, others cannot have a veto on American action.

[1] For a more detailed discussion, see Robert Jervis, "Understanding the Bush Doctrine," *Political Science Quarterly* 118 (Fall 2003): 365–388.

ROBERT JERVIS is Adlai E. Stevenson Professor of International Politics at Columbia University and former president of the American Political Science Association. He is author, most recently, of *System Effects: Complexity in Political and Social Life* and *American Foreign Policy in a New Era*, from which this article is adapted.

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Taken together, these elements imply an extraordinarily ambitious foreign policy agenda, involving not only the transformation of international politics, but also the re-making of many states and societies along democratic lines. As Bush has so often and so eloquently said, most clearly in his second inaugural address, evil regimes can no longer be tolerated. "The survival of liberty in our land increasingly depends on the success of liberty in other lands. The best hope for peace in our world is the expansion of freedom in the world." Some may wonder at such far-reaching goals and sense of the virtue of the American cause, but John Adams was correct in explaining to Thomas Jefferson that "Power always sincerely, conscientiously, de tres bon Foi, believes itself Right. Power always thinks it has a great Soul, and vast Views, beyond the Comprehension of the Weak; and that it is doing God's Service, when it is violating all his Laws."[2] The unprecedented extent of American power has allowed the United States to embark on its course, but does not mean that it can endure. In fact, I think it will collapse because of the Bush Doctrine's internal contradictions and tensions, the nature of America's domestic political system, and the impossibly heavy burden placed on America's ability to understand the actors that are seen as potentially deadly menaces to it.

Internal Tensions

The Bush Doctrine combines a war on terrorism with the strong assertion of American hegemony. Although elements arguably reinforced each other in the overthrow of the Taliban, it is far from clear that this will be the case in the future. Rooting out terrorist cells throughout the world calls for excellent information, and this requires the cooperation of intelligence services in many countries. American power allows it to deploy major incentives to induce cooperation, but there may come a point at which opposition to U.S. dominance will hamper joint efforts. The basic unilateralism of the U.S. behavior that goes with assertive hegemony as exemplified by the war in Iraq has strained the alliance bonds in a way that can make fighting terrorism more difficult.[3]

Iraq highlights a related tension in the Bush Doctrine. The administration argued that overthrowing Saddam Hussein was a part of the war on terrorism because of the danger that he would give WMD to terrorists. Bush calls Iraq the "the central front" in the counterterrorist effort, and he rhetorically asks, "If America were not fighting terrorists in Iraq, . . . what would these thousands of killers do, suddenly begin leading productive lives of service and charity?"[4]

[2] Adams to Jefferson, February 2, 1816, in Lester Cappon, ed., *The Adams-Jefferson Letters*, vol. 2 (Chapel Hill: University of North Carolina Press, 1959), 463.

[3] For an example, see Douglas Jehl and Thom Shanker, "Syria Stops Cooperating with U.S. Forces and C.I.A.," *New York Times*, 24 May 2005.

[4] Bush's speech to the Army War College in May 2004: "President Outlines Steps to Help Iraq Achieve Democracy and Freedom," White House press release, 24 May 2004; "Remarks by the President at the United States Air Force Academy Graduation," White House press release, 2 June 2004.

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I join many observers in finding this line of argument implausible and in believing that the war was, at best, a distraction from the struggle against al Qaeda. To start with, diplomatic, military, and intelligence resources that could have been used to seek out terrorists, especially in Afghanistan, were redeployed against Iraq. In perhaps an extreme case, in June of 2002, the White House vetoed a plan to attack a leading terrorist and his poison laboratory in northern Iraq because it might have disturbed the efforts to build a domestic and international coalition to change the regime,[5] and Abu Musab al-Zarqawi later emerged as the most important insurgent in Iraq and second only to Osama bin Laden on the overall most-wanted list. More generally, thanks to the war, the United States is now seen as a major threat to peace, and in many countries, George Bush is more disliked than bin Laden.[6] Of course, foreign policy is not a popularity contest, but these views eventually will be reflected in reduced support for and cooperation with the United States. Finally and most importantly, if the United States is fighting terrorists in Iraq, the main reason is not that they have flocked to that country to try to kill Americans but that the occupation has recruited large numbers of people to the terrorist cause. Although evidence, let alone proof, is of course elusive, it is hard to avoid the inference that the war has created more terrorists than it has killed, has weakened the resolve of others to combat them, and has increased the chance of major attacks against the West.[7]

Even without the stimulus of the American occupation of Iraq, the highly assertive American policy around the world may increase the probability that it will be the target of terrorist attacks, inasmuch as others attribute most of the world's ills to America. Whether terrorists seek vengeance, publicity, or specific changes in policy, the dominant state is likely to be the one they seek to attack. American power, then, produces American vulnerability.[8] If the United States wanted to place priority on reducing its attractiveness as a target for terrorism, it could seek a reduced role in world politics. The real limits to what could be done here should not disguise the tension between protection from terror and hegemony.

[5] NBC News, 2 March 2004, Jim Miklaszewski, "Avoiding Attacking Suspected Terrorist Mastermind," accessed at http://www.msnbc.msn.com/id/4431601/, 5 March 2004. Scot Paltrow, "Questions Mount Over Failure to Hit Zarqawi's Camp," *Wall Street Journal*, 25 October 2004.

[6] Susan Sachs, "Poll Finds Hostility Hardening Toward U.S. Policies," *New York Times*, 17 March 2004; no author, "Bush vs. bin Laden (And Other Popularity Contests)," *New York Times*, 21 March 2004; Alan Cowell, "Bush Visit Spurs Protests Against U.S. In Europe," *New York Times*, 16 November 2003.

[7] This view is held by a wide range of observers, including France's leading anti-terrorism investigator and Pakistan's President Pervez Musharraf, as well as (more predictably) France's Chirac: Douglas Frantz, Josh Meyer, Sebastian Rotella, and Megan Stack, "The New Face of Al Qaeda," *Los Angeles Times*, 26 September 2004; cnn.com, "Musharraf 'Reasonably Sure' bin Laden is Alive," 25 September 2004, accessed at http://www.cnn.com/2004/WORLD/asiapcf/09/25/musharraf/, 26 September 2004; Craig Smith, "Chirac Says War in Iraq Spreads Terrorism," *New York Times*, 18 November 2004. It was even endorsed by the head of the CIA in early 2005: Dana Priest and Josh White, "War Helps Recruit Terrorists, Hill Told," *Washington Post*, 17 February 2005.

[8] For a related argument, see Richard Betts, "The Soft Underbelly of American Primacy: Tactical Advantages of Terror," *Political Science Quarterly* 117 (Spring 2002): 19–36.

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The Bush Doctrine argues that combatting terrorism and limiting proliferation go hand in hand. They obviously do in some cases. The danger that a rogue state could provide terrorists with WMD, although implausible in the case of Iraq, is not fictitious, and controlling the spread of nuclear weapons and nuclear material contributes to American security. But this does not mean that there are no trade-offs between nonproliferation and rooting out terrorism. Most obviously, Iraq's drain on American military resources, time and energy, and on the support from the international community means that the ability to deal with Iran and North Korea has been reduced. These two countries figured prominently in administration fears before September 11 and are more dangerous and perhaps more likely to provide weapons to terrorists than was Iraq. But the way the Bush administration interpreted the war on terror has hindered its ability to deal with these threats, and, in an added irony, if Iran gets nuclear weapons, the United States may be forced to provide a security guarantee for Iraq or permit that country to develop its own arsenal. Furthermore, even if better conceived, combating terrorism can call for alliances with regimes that seek or even spread nuclear weapons. The obvious example is Pakistan, a vital American ally that has been the greatest facilitator of proliferation. The United States eventually uncovered A. Q. Kahn's network and forced President Pervez Musharraf to cooperate in rolling it up, but it might have moved more quickly and strongly had it not needed Pakistan's support against al Qaeda. This compromise is not likely to be the last, and the need to choose between these goals will continue to erode the Bush Doctrine's coherence.

Despite its *realpolitik* stress on the importance of force, the Bush Doctrine also rests on idealistic foundations—the claim for the centrality of universal values represented by America, the expected power of positive example, the belief in the possibility of progress. What is important is that these have power through their acceptance by others, not through their imposition by American might. They require that others change not only their behavior but their outlook, if not their values, as well. For this to happen, the United States has to be seen as well-motivated and exemplifying shared ideals. America's success in the Cold War derived in part from its openness to allied voices, its articulation of a common vision, and a sense of common interest. Although we should not idealize this past or underestimate the degree to which allies, let alone neutrals, distrusted U.S. power and motives, neither should we neglect the ways that enabled influence to be exercised relatively cheaply and allowed the West to gain a much greater degree of unity and cooperation than many contemporary observers had believed possible.

Then, as now, the United States needed not only joint understandings but also multilateral institutions to provide for cooperation on a wide range of issues, especially economic ones. Perhaps the United States can ignore or diminish them in the security area without affecting those such as the World Trade Organization (WTO) on which it wants to continue to rely, but the possibility of undesired spillovers is not to be dismissed. If others do not expect the United States to respect limits that rules might place on it, they are less apt to see it as a trustworthy partner.

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Just as the means employed by the Bush Doctrine contradict its ends, so also the latter, by being so ambitious, invite failure. Not only is it extremely unlikely that terror can ever be eradicated, let alone the world be rid of evil, but the fact that Saddam lost the war in Iraq does not mean that the United States won it. Ousting his regime was less important in itself than as a means to other objectives: reducing terrorism, bringing democracy to Iraq, transforming the Middle East, and establishing the correctness and the legitimacy of the Bush Doctrine. Although the effects of the invasion have not yet fully played out, it is hard to see it as a success in these terms. Indeed, despite the fact that the January 2005 elections in Iraq were relatively successful, the political outlook for the country is not good. Ironically, the dramatic and disabling insurgency has distracted American if not Iraqi attention from what is probably the even less-tractable problem of establishing a political settlement among those who have not (yet) resorted to arms. Overly ambitious goals invite not only defeat, but disillusion; if the experiment in Iraq does not yield satisfactory results, it will be hard to sustain support for the Doctrine in the future.

Finally, the Bush Doctrine is vulnerable because although it rests on the ability to deploy massive force, its army, despite being capable of great military feats, is not large enough to simultaneously garrison a major country and attack another adversary, and may not even be sufficient for the former task over a prolonged period. Thanks to the occupation of Iraq, the United States could not now use ground force against Iran or North Korea, and, indeed, the occupation appears to be gravely damaging the system of a volunteer army, reserves, and national guard that has proven so successful since the draft was abolished more than a quarter-century ago.

Imperial Overstretch?

To succeed, the Bush Doctrine will need prolonged support from the American economic and political system. Before turning to the latter, I want to discuss the more familiar claim that the United States, like so many great powers before it, is falling victim to "imperial overstretch" as the country takes on ever more extensive and expensive commitments.[9]

This has been a common trajectory throughout history, but does not tell us much about the likely fate of the United States and the Bush Doctrine. The U.S. defense budget consumes only a small portion of gross domestic product (less than 4%); the proportion devoted to the war on terrorism, although impossible to determine with any precision, obviously is even smaller. The U.S. economy can afford this war, even for the indefinite future. Granted, there are economic impediments to continuing on the current path. Deficits in the federal budget

[9] The term is taken from Paul Kennedy, *The Rise and Fall of the Great Powers: Economic Change and Military Conflict from 1500 to 2000* (New York: Random House, 1987). A parallel argument was made earlier by Robert Gilpin, *War and Change in World Politics* (New York: Cambridge University Press, 1981).

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and balance of payments are enormous and make the United States vulnerable to external pressures because they cannot be sustained without heavy inflows from abroad.

But, as many commentators have noted, increased defense spending is not the major cause of the problem: the American policy is not doomed to fail because of lack of resources. The United States could easily balance its budget if it were willing to increase taxes. Bush has done the opposite, making this the first war in American history during which taxes have gone down, not up. The problem of an army too small for multiple commitments is probably a better case of "imperial overstretch," but here, too, it is willpower rather than manpower that is in short supply. Higher pay or the reinstitution of a modest draft could provide what is needed.

A more political argument is that these resources cannot be tapped because of resistance from Bush supporters; that is, those in the highest income brackets, who have benefitted so much from the tax cuts, would not support the expansive foreign policy if they were not being rewarded in this way, and their backing is necessary to sustaining this policy. This argument is not without its appeal, but I do not think it is correct. The rich are very happy with Bush's tax cuts, but there is no evidence that they would have opposed him and his foreign policy without them. Some targeted favors and spending programs, especially increases in agricultural subsidies, may have been necessary to maintain domestic support for the administration, but the tax cuts were not.

Domestic Regime and Politics

This general line of argument points in the right direction, however. Public opinion, the structure of the U.S. government, and domestic politics make it difficult to sustain the Bush Doctrine or any other clear policy. "It seems that the United States was a very difficult country to govern," Charles de Gaulle is said to have told British Prime Minister Harold Macmillan when explaining why it was hard to count on the United States.[10] The General was correct: democracies, and especially the United States, do not find it easy to sustain a clear line of policy when the external environment is not compelling. Domestic priorities ordinarily loom large, and few Americans think of their country as having an imperial mission. Wilsonianism may provide a temporary substitute for the older European ideologies of a *mission civilisatrice* and "the white man's burden," but because it rests on the assumption that its role will be not only noble but also popular, I am skeptical that it will endure if it meets much opposition from those who are supposed to benefit from it.

[10] Quoted in Marc Trachtenberg, *A Constructed Peace: The Making of the European Settlement, 1945–1963* (Princeton, NJ: Princeton University Press, 1999), 244. More consistency is seen by Stephen Sestanovich, "American Maximalism," *National Interest* 79 (Spring 2005): 13–23; and Richard Betts, "The Political Support System for American Primacy," *International Affairs* 81 (January 2005): 1–14.

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Under most circumstances, the American state is not strong enough to impose coherent and consistent policy guidance, which means that courses of action are shaped less by a grand design than by the pulling and hauling of varied interests, ideas, and political calculations. This is the model of pluralism that is believed by most scholars to capture a great deal of American politics. During the Cold War, realists argued that the national interest abroad, unlike the public interest at home, was sufficiently compelling to override domestic differences and enable even a relatively weak state to follow a policy of some coherence. But the prevalence of realist calls for countries and their leaders to pursue the national interest in the face of conflicting domestic claims indicates that the latter are so powerful that they are likely to prevail under ordinary circumstances.

One might think that domestic support could be arranged with adequate public education: if the experts agree, the public can be brought around. In the late 1940s, the architects of containment were able to work with opinion leaders to develop strong foundations for the policy, but by the end of the century, trust in government and other organizations was low and the sort of civic leaders that were powerful earlier had disappeared. Only conspiracy theorists see the Council on Foreign Relations as much more than a social and status group. "Captains of industry" are absent, with the possible exception of a handful of leaders in the communications and information sectors who lack the breadth of experience of earlier elites. Union leaders have disappeared even faster than unions. University presidents, who were national figures at mid-century, have become money raisers. Those newspapers that have survived are much less relied upon than was true in the past, and television anchors do not have the expertise and reputation that would allow them to be influential, even if the large corporations that own the networks would permit them to try. Known to the public now are "celebrities," largely from the sports and entertainment industries, who lack the interest and knowledge necessary to undertake the public educational campaigns we saw in the past. Thus, it is not surprising that despite Bush's convincing a majority of the American people that they would be safer with him as president than with John Kerry, he has not been able to generate strong support for his general foreign policy.

Separation of powers means that the president cannot control Congress, which can undermine the president's policies. In a minor but telling example, the need to garner crucial Congressional votes for a broad package of trade legislation made Bush promise representatives from textile-producing districts that he would maintain strict limits on clothing made in Pakistan, creating resentment in that country.[11] The judiciary also is independent, giving citizens the ability to bring suits that run contrary to the policies of the executive branch, as shown by several human rights cases brought under the Alien Tort Claims Act, a 1789 law resurrected and put to new purposes, and by the families of September 11 victims, who are suing leading figures in Saudi Arabia for having financed Islamic extremism.

[11] Keith Bradshear, "Pakistanis Fume As Clothing Sales to U.S. Tumble," *New York Times*, 23 June 2002.

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At first glance, it would seem that much as the experts criticize the Bush Doctrine for its unilateralism, on this score, at least, it rests on secure domestic foundations. The line that drew the most applause in the President's 2004 State of the Union address was: "America will never seek a permission slip to defend the security of our country." In fact, the public is, sensibly, ambivalent. Although few would argue that the lack of international support should stop the United States from acting when a failure to do so would endanger the country, polls taken in the run-up to the war in Iraq indicated that international endorsement would have added as much as 20 percentage points to support for attacking.[12] Even in a country with a strong tradition of unilateralism, people realize that international support translates into a reduced burden on the United States and increased legitimacy that can both aid the specific endeavor at hand and strengthen the patterns of cooperation that serve American interests. Furthermore, many people take endorsement by allies as an indication that the American policy is sensible. This is a great deal of the reason why Tony Blair's support for Bush was so important domestically, and this means that the Bush Doctrine is particularly vulnerable to British defection.

In summary, although the combination of Bush's preferences and the attack of September 11 have produced a coherent doctrine, domestic support is likely to erode. Congress will become increasingly assertive as the war continues, especially if it does not go well; the Democrats, although lacking a consistent policy of their own, have not accepted the validity of Bush's strategy; and although the public is united in its desire to oppose terrorism, the way to do so is disputed. The United States remains a very difficult country to govern.

Requirements for Intelligence

It is particularly difficult for the Bush Doctrine to maintain public support, because preventive wars require more-accurate assessment of the international environment than intelligence can provide. The basic idea of nipping threats in the bud, of acting when there is still time, implies a willingness to accept false positives in order to avoid more-costly false negatives. That is, the United States must act on the basis of far from complete information, because if it hesitates

[12] Richard Benedetto, "Poll: Support for War is Steady, But Many Minds Not Made Up," *USA Today*, 28 February 2003; an even larger effect was reported in Michael Tackett, "Polls Find Support for War Follows Party Lines," *Chicago Tribune*, 7 March 2003. Some findings indicate that what was seen as crucial was support from allies, not necessarily the UN: Gary Younge, "Threat of War: Americans Want UN Backing Before War," *The Guardian* (Manchester), 26 February 2003; for data and analysis that shows continued American support for multilateralism, see the Chicago Council on Foreign Relations 2004 public opinion survey, accessed at http://www.ccfr.org/globalviews2004/main.html, 22 November 2004; and Ole Holsti, *Public Opinion and American Foreign Policy*, rev. ed. (Ann Arbor: University of Michigan Press, 2004), especially ch. 6.

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until the threat is entirely clear, it will be too late: it cannot afford to wait until the smoking gun is a mushroom cloud, to use the phrase the administration favored before the Iraq war. In principle, this is quite reasonable. The costs of a WMD attack are so high that a preventive war could be rational even if retrospect were to reveal that it was not actually necessary.

Even if this approach is intellectually defensible, however, it is not likely to succeed politically. The very nature of a preventive war means that the evidence is ambiguous and the supporting arguments are subject to rebuttal. If Britain and France had gone to war with Germany before 1939, large segments of the public would have believed that the war was not necessary. If the war had gone well, public opinion might still have questioned its wisdom; had it gone badly, the public would have been inclined to sue for peace. At least as much today, the cost of a war that is believed to be unnecessary will be high in terms of both international and domestic opinion and will sap the support for the policy. (Indeed, in the case of Iraq, the administration chose not to admit that the war was not forced on it despite the clear evidence that the central claims used to justify it were incorrect.[13]) Even if the public does not judge that the administration should be turned out of power for its mistake, it is not likely to want the adventure to be repeated.

Preventive war, then, asks a great deal of intelligence. It does not bode well for the Bush Doctrine that not only did the war in Iraq involve a massive intelligence failure concerning WMD (which is different from saying that it was caused by this failure), but also the United States started the war two days ahead of schedule because agents incorrectly claimed to know the whereabouts of Saddam Hussein and his sons. The amazing accuracy of the munitions that destroyed the location only underlined the falsity of the information.

The case for preventive war against Iraq turned on the claim that it had active WMD programs, and so, in retrospect, the question is often posed as to whether the intelligence was faulty or whether the Bush administration distorted it.[14] I think the former was dominant but the latter should not be ignored.

[13] Supporters of President Bush believe that such weapons were found, however: see the survey by the Program on International Policy Attitudes, University of Maryland, "The Separate Realities of Bush and Kerry Supporters," 21 October 2004, accessed at http://www.pipa.org/OnlineReports/Pres_Election_04/Report10_21_04.pdf, 29 October 2004.

[14] The official American and British post-mortems not only provide a good deal of information, but exemplify, and indeed parody, the conventional wisdom about the two countries' political cultures. The Senate Select Committee on Intelligence (SSCI) report, *US Intelligence Community's Prewar Intelligence Assessments on Iraq* (7 July 2004) is more than just critical of the CIA, it is both a brief for the prosecution and quite partisan. It is also extremely long and detailed. It exemplifies the American penchant for as much information as possible and an adversarial approach to public policy questions. The WMD Commission Report to the President of 31 March 2005 is better. The British report of a committee of Privy Counselors chaired by the Rt Hon The Lord Butler of Brockwell KG GCB CVO, *Review of Intelligence on Weapons of Mass Destruction* (14 July 2004), is shorter, displays a good understanding of the problems of intelligence, is embarrassingly exculpatory, but makes some good points in a subtle manner.

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The possibility of intelligence being "politicized" (that is, being a product of policy more than an input to it) comes in multiple forms, of which two are the most obvious.[15] One is decision makers' giving inaccurate accounts of intelligence reports, and the other is their putting pressure on intelligence so that they get back the message they want to hear. I believe that both forms were present but that the latter was a relatively small part of the story. Top administration officials made claims that went significantly beyond what was in intelligence estimates, and, indeed, contradicted them. When they did not say that their statements were grounded in agreed-upon intelligence, this was implied. Most famously, the President said that the British reported that Saddam had sought uranium from Africa (true, but a reasonable listener would infer that American intelligence agreed, which was not true), the Vice President and the Secretary of Defense said that there was solid evidence for connections between Iraq and al Qaeda, and many policy makers insisted that the WMD threat was "imminent." The intelligence community disagreed, and, indeed, CIA Director George Tenet testified that he privately corrected officials for claims like these.[16]

Many people have argued that intelligence was politicized in the sense that there was great pressure on intelligence to tell the policy makers what they wanted to hear. It became obvious that the intelligence community had stretched to support policy when it released a declassified report that painted a more vivid and certain picture of WMD capabilities than it had presented in the classified counterparts, dropping fifteen "probablies" and several dissents.[17] But I believe that few of the major misjudgments can be attributed to political

[15] A devastating analysis of the way in which the administration distorted and misstated intelligence is Senator Carl Levin, "Report of an Inquiry into the Alternative Analysis of the Issue of an Iraq–al Qaeda Relationship," 21 October 2004, accessed at www. Levin.senate.gov, 28 October 2004. On politicization in general, see H. Bradford Westerfield, "Inside Ivory Bunkers: CIA Analysts Resist Managers' 'Pandering', Part I," *International Journal of Intelligence and Counterintelligence*, 9 (Winter 1996/97): 407–424; H. Bradford Westerfield, "Inside Ivory Bunkers: CIA Analysts Resist Managers' 'Pandering', Part II," *International Journal of Intelligence and Counterintelligence*, 10 (Spring 1997): 19–56; Jack Davis, "Analytic Professionalism and the Policymaking Process," Sherman Kent for Intelligence Analysis Occasional Papers, vol. 2, October 2003 (Washington DC: CIA); and Richard Betts, "Politicization of Intelligence: Costs and Benefits" in Richard Betts and Thomas Mahnken, eds., *Paradoxes of Intelligence: Essays in Honor of Michael Handel* (London: Cass, 2003), 59–79. My analysis assumes that the administration believed that Saddam had WMD. Although no evidence has been produced to the contrary, one significant bit of behavior raises doubts: the failure of U.S. forces to launch a careful search for WMD as they moved through Iraq. Had there been stockpiles of WMD materials, there would have been a grave danger that these would have fallen into the hands of America's enemies, perhaps including terrorists. I cannot explain the U.S. failure, but the conduct of much of the U.S. occupation points to incompetence.

[16] Douglas Jehl, "C.I.A. Chief Says He's Corrected Cheney Privately," *New York Times*, 10 March 2004.

[17] Jessica Mathews and Jeff Miller, "A Tale of Two Intelligence Estimates," Carnegie Endowment for International Peace, 31 March 2004; Donald Kennedy, "Intelligence Science: Reverse Peer Review?" *Science* 303 (March 2004): 194; Center for American Progress, "Neglecting Intelligence, Ignoring Warnings," 28 January 2004, accessed at http://www.americanprogress.org/site/pp.asp?c=biJRJ8OVF&b=24889, 28 January 2004.

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pressure. The report of the Senate Select Committee on Intelligence and that of the WMD commission found little politicization, and while the former is itself a political document, intelligence officers truly believed that Saddam was actively pursuing WMD programs and few of them have complained, even anonymously, that they acted under duress.

Three kinds of comparisons raise further doubts about the role of political pressure. First and most obviously, in other areas, the CIA came to conclusions that were unpalatable to the administration. Three months before the war, the National Intelligence Council warned that the aftermath of the invasion was not likely to be easy and that attacking might increase support for terrorists in the Islamic world.[18] Even more strikingly, intelligence consistently denied that there was significant evidence for Saddam's role in September 11 or that he might turn over WMD to al Qaeda, holding to this position in the face of administration statements to the contrary, endlessly repeated inquiries and challenges that can only be interpreted as pressure, and the formation of a unit in the Defense Department dedicated to finding evidence for such connections. The administration's pressure was illegitimate, but the lack of success not only speaks to the integrity of the intelligence officials, but also cuts against, although cannot disprove, the claim that the reports on WMD were biased by the desire to please.

The other two comparisons also point in the same direction. Although we do not know the details of the estimates of German and French intelligence, it appears that their views paralleled those of the CIA despite the fact that their governments opposed the war. This indicates that the American judgment could be reached without political pressure (and perhaps in the face of pressure to conclude the contrary). A comparison with the Clinton-era estimates also is informative. Under Bush, intelligence reported a more robust program, including the claim that Iraq had restarted its nuclear program and had a stockpile of biological agents.[19] But quite a bit of new information, only later revealed as misleading, supported these changes and, even more importantly, the gap between the Bush and Clinton estimates was less than that which separated the latter from what we now believe was true.

Although the intense political atmosphere cannot explain the fundamental conclusion that Saddam had active WMD programs, it was not conducive to critical analysis and encouraged judgments of excessive certainty. Analysts and intelligence managers knew that any suggestion that Saddam's capabilities were limited would immediately draw hostile fire from their superiors. Indeed, in this political climate, it would have been hard for anyone to even ask if the conventional wisdom about Saddam's WMD programs should be reexamined.

[18] Douglas Jehl and David Sanger, "Prewar Assessment on Iraq Saw Chance of Strong Divisions," *New York Times*, 28 September 2004.

[19] The best analysis is Joseph Cirincione, Jessica Mathews, George Perkovitch, and Alexis Orton, *WMD in Iraq: Evidence and Implications* (Washington DC: Carnegie Endowment, January 2004); also see David Isenberg and Ian Davis, "Unravelling the Known Unknowns: Why No Weapons of Mass Destruction Have Been Found in Iraq," British American Security Information Council Special Report 2004.1, January 2004; David Cortright, Alistair Millar, George Lopez, and Linda Gerber, "The

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Political pressures represent the tribute that vice plays to virtue and may be a modern phenomenon. That is, leaders, at least in the United States and the U.K., now need to justify their foreign policies by saying that they are based on the findings of intelligence professionals, as is illustrated by the fact that Secretary of State Colin Powell demanded that Director of Central Intelligence Tenet sit behind him when he gave his speech to the UN outlining the case against Iraq. This is a touching faith in the concept of professionalism and in how much can be known about other states. It is not the only way things could be. A leader could say, "I think Saddam is a terrible menace. This is a political judgment and I have been elected to make difficult calls like this. Information rarely can be definitive and, although I have listened to our intelligence services and other experts, this is my decision, not theirs." Perhaps unfortunately, this is politically very difficult to do, however, and a policy maker who wants to proceed in the face of ambiguous or discrepant information will be hard pressed to avoid at least some politicization of intelligence.[20]

This returns us to the fundamental question of why the intelligence was so wrong. First and most fundamentally, intelligence is hard and there is no *a priori* reason to expect success. Intelligence services are engaged in a competitive game, with hiders and deceivers usually having the advantage. Failure may not call for any special explanation, but it may be what we should expect in the absence of particularly favorable circumstances. This is not a new insight; the only fault with what Carl Von Clausewitz has to say is that he implies that the difficulties are less in peacetime: "Many intelligence reports in war are contradictory; even more are false, and most are uncertain."[21]

Second and relatedly, the United States had little reliable information about Iraq. It lacked well-placed agents and, in their absence, could not readily see that most of the reports it did receive were unreliable or deceptive. Some of these reports may have been inadvertently misleading if they accurately reported what Saddam's officials believed, because it turns out that Saddam was misleading them.[22] Ironically, the problem was magnified by the fact that the Iraqi WMD program became a top priority for American intelligence. Because everyone in the intelligence chain knew that the government was extraordi-

Flawed Case for the War in Iraq," Fourth Freedom Forum and Kroc Institute for International Peace Studies, University of Notre Dame, Policy Brief F12, June 2003; "Opening Statement of Senator Carl Levin at Senate Armed Services Committee Hearing with DCI Tenet and DIA Director Jacoby," 9 March 2004, accessed at http://www.fas.org/irp/congress/2004_hr/levin030904.html, 10 March 2004.

[20] It now appears that some of the friction between Undersecretary of State John Bolton and intelligence officials over how to characterize Cuban biological programs concerned whether his speech represented a political judgment or a report on the intelligence consensus: Douglas Jehl, "Released E-Mail Exchanges Reveal More Bolton Battles," *New York Times*, 24 April 2005; Douglas Jehl, "Bolton Asserts Independence On Intelligence," *New York Times*, 12 May 2005.

[21] Michael Howard and Peter Paret, eds., *On War* (Princeton, NJ: Princeton University Press, 1976), 117. Anyone who sees intelligence errors in terms of the failure to "connect the dots" does not understand the problem.

[22] SSCI, *U.S. Intelligence*, 65.

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narily interested in what Iraq was doing in this area, all sorts of reports were generated and passed on, thereby producing the incorrect impression that with this much smoke, there had to be fire. The problem was compounded by the failure to tell the analysts that photographic coverage had increased in 2002, leading them to incorrectly infer that the increased activity they saw at chemical sites represented increased activity rather than increased surveillance.[23]

Third, intelligence agencies learned—and overlearned—from the past. After the 1991 Gulf War, intelligence was shocked to learn how much it had underestimated Iraq's WMD programs, especially in the nuclear area, and it was not going to make this error again. Relatedly, intelligence had learned how effective Saddam's programs of deception and denial were, and this meant that any failure to find specific evidence could be attributed to Iraq's success at hiding it. All this was compounded by the Rumsfeld Commission of 1998 that berated the CIA for basing its missile estimates on the assumption that adversaries would adopt the same methodical path to acquiring these weapons that the United States had followed.

Fourth, once a view of the other side becomes established, it will remain unquestioned in the absence of powerful information to the contrary. Intelligence analysts, like everyone else, assimilate incoming information into their preexisting beliefs. In the early 1990s, almost everyone came to believe that Saddam had active WMD programs. Without complete and thorough inspections to show that this was not the case, it was natural that people would interpret ambiguous information as not only consistent with but also as confirming this "fact."

The driving role of preexisting beliefs and images is shown by the fact that people who were predisposed to believe that Saddam might ally with Osama bin Laden gave great credit to the scattered and ambiguous reports of such ties, while those whose general views of the Iraqi regime made them skeptical that it would do this found the evidence unconvincing. Similarly, the differences in evaluations of the reports that Saddam was trying to acquire uranium from Niger and that his unmanned aircraft might be intended to strike the United States are explained not by the evidence, which was held in common by all involved, or by better or worse reasoning power, but rather by the analysts' differing general beliefs about whether such policies did or did not make sense.

The final explanation is probably most important: given Saddam's behavior, his protestations that he had disarmed were implausible. That is why most opponents of the war did not dispute the basic claim that Saddam had active WMD programs. If he did not, why did he not welcome the inspectors and actively show that he had complied? Doing so under Clinton could have led to the sanctions being lifted; doing so in 2002–2003 was the only way he could have saved his regime. Iraq could have provided a complete and honest account-

[23] WMD Commission, "Report to the President," 92–93.

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ing of its weapons programs as called for by the UN resolution, and although the Bush administration would not have been convinced, other countries might have been and domestic opposition might have been emboldened. Similarly, Iraq could have mounted an effective rebuttal to Powell's UN speech. The regime's failure to do these things left even opponents of the war with little doubt that Saddam had active and serious WMD programs.

Even in retrospect, Saddam's behavior is puzzling. The post-war Duelfer Report, although speculative and based on only scattered information because Saddam and his top lieutenants did not speak freely, gives us the best available evidence. This evidence reveals that Saddam felt the need to maintain the appearance of WMD in order to deter Iran, that he feared that unlimited inspections would allow the United States to pinpoint his location and assassinate him, that private meetings between the inspectors and scientists were resisted because "any such meeting with foreigners was seen as a threat to the security of the Regime," and that "Iraq did not want to declare anything that documented use of chemical weapons [in the war with Iran] for fear the documentation could be used against Iraq in lawsuits."[24] Saddam's general policy seems to have been to first end sanctions and inspections and then to reconstitute his programs, all the while keeping his real and perceived adversaries at bay. "This led to a difficult balancing act between the need to disarm to achieve sanctions relief while at the same time retaining a strategic deterrent. The Regime never resolved the contradiction inherent in this approach."[25] This is putting it mildly. Full compliance with the inspectors was the only way that sanctions were going to be lifted, especially after September 11. It is true that revealing that he had no WMD would have reduced his deterrence, but the fear of such weapons could not and did not prevent an American attack, and Iran was hardly spoiling for a fight and could not have assumed that the West would stand aside while it greatly increased its influence by moving against Iraq. Saddam's policy was, then, foolish and self-defeating and goes a long way to explaining the Western intelligence failure. When the truth is as bizarre as this, it is not likely to be believed.

Although this last factor made the Iraq case particularly difficult, future cases are not likely to be easy, and intelligence will continue to be faulty. The National Security Strategy document says that in order to support preventive options, the United States "will build better, more integrated intelligence capa-

[24] "Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD," 30 September 2004 (Duelfer Report), 29, 55, 62, 64. John Mueller had earlier speculated that Saddam's limitations on the inspectors were motivated by his fear of assassination: "Letters to the Editor: Understanding Saddam," *Foreign Affairs* 83 (July/August 2004): 151.

[25] Duelfer Report, 34, 57. Ending economic sanctions and ending inspections would not necessarily have coincided and it is not clear which of them was viewed as most troublesome, or why. The UN resolutions provided for the latter to continue even after the former ended, and Saddam had terminated inspections in 1998. This presents a puzzle, because if inspections had been the main barrier, Saddam should have resumed his programs at that point, as most observers expected he would. But it is hard to see how the sanctions were inhibiting him, because after the institution of the Oil for Food program, the regime had access to sufficient cash to procure much of what it needed.

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bilities to provide timely, accurate information on threats, wherever they emerge," but this is not likely to be possible.[26] Of course the CIA will get some important cases right, but I suspect that success will be less the rule than the exception. It appears that the United States knows even less about the nuclear programs of Iran and North Korea than it did about Iraq's, and the latter failure's main contribution to improving intelligence about the former has been to reduce the confidence with which judgments are expressed. This is useful, but hardly solves the problem. The establishment of a Director of National Intelligence and the accompanying reorganization is not likely to improve things much either, and the demoralization and dislocation is almost certain to decrease the quality of intelligence in the short run. A policy that can only work if the assessments of other actors are quite accurate is likely to fail. Thus, the Bush Doctrine places a heavier burden on intelligence than it can bear.

Rebuttal

Proponents of the Bush Doctrine can argue that this line of argument is irrelevant. As noted earlier, the dominant view in the administration is that a state's foreign policy follows from its domestic political system. This is a very American approach, extending back to Woodrow Wilson if not earlier, and having significant appeal to liberal elites and the public. It also fits with a cursory look at the last century's history, with Joseph Stalin and Adolf Hitler being two leaders who tyrannized over their own subjects before turning their venom on the wider world. In this view, evil regimes follow evil foreign policies. This means that consequential assessment errors will be quite rare. Even when intelligence has difficulty estimating the other's capabilities, it is very easy to tell when its regime is repressive. Thus, knowing that North Korea, Iran, and Syria are brutal autocracies tells us that they will seek to dominate their neighbors, sponsor terrorism, and threaten the United States.

Indeed, in the wake of the failure to find WMD after the war in Iraq, this has become the main line of the Bush administration's defense of its actions. Perhaps the United States had a few more years to respond than was believed, but because removing Saddam was the only way to remove the danger, this error was minor. As Bush told Tim Russert, "Saddam was dangerous with the ability to make weapons."[27] This approach turns on its head the normal mantra

[26] White House, "The National Security Strategy of the United States," (Washington DC: September 2002), 16. Similarly, in defending the idea of preventive war, Condoleezza Rice said that it "has to be used carefully. One would want to have very good intelligence": *Online NewsHour*, "Rice on Iraq, War and Politics," 25 September 2002, accessed at www.pbs.org/newshour/bb/international/july-dec02/rice_9-25.html, 15 September 2003.

[27] NBC, *Meet the Press*, interview with Tim Russert, 8 February 2004, accessed at http://www.msnbc.msn.com/id/4179618/, 2 November 2004; also, see Bush interview with Diane Sawyer, "Ultimate Penalty," 16 December 2003, accessed at http://abcnews.go.com/sections/primetime/US/bush_sawyer_excerpts_1_031216.html, 20 December 2003. Colin Powell said something similar in "Remarks on the Occasion of George Kennan's Centenary Birthday," 20 February 2004, accessed at http://www.state.gov/secretary/rm/29683pf.htm, 21 February 2004, despite having taken a somewhat different position

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of conservative intelligence analysis that one should concentrate on capabilities, not intentions. For a regime like this, Bush and his colleagues claim, what is crucial is that it was evil and had the intention to get WMD.

This approach has two difficulties, however. First, taken to its logical conclusion, it implies a very much reduced need for intelligence. It does not take spies or expensive satellites to determine that a country is repressive, and if that is all that we need to know, we can save a great deal of money. Second, even if it is true that the countries that abuse their neighbors are those that have abused their own people, many of the latter follow a quiescent foreign policy. Mao's China, for example, was second to none in internal oppression but followed a cautious if not benign foreign policy. Thus, although knowing that only repressive regimes are threats to the United States would indeed be useful, it does not solve the basic conundrum facing the doctrine of preventive war: deciding which countries pose threats grave enough to merit taking the offensive.

Understanding Adversaries

My previous discussion, like most treatments of the subject, has concentrated on specific intelligence problems of the mis-estimates of Iraq's WMD programs. But the war also revealed a broader kind of failure, one that is quite common and that also makes it difficult to sustain the Bush Doctrine: the inability to understand the way Saddam viewed the world and the strategy that he was following, and the related failure of the United States to adequately convey its intentions and capabilities to him. As subsequent events demonstrated, the United States had the ability to rapidly overthrow Saddam, if not to rapidly pacify the country, and to capture him. It also seemed clear to most of the world that the United States would carry out its threat if need be. Saddam then seemed willfully blind, and as a result, the United States could not coerce him despite its great capability and credibility. This is puzzling. During the Cold War, we became accustomed to the disturbing fact that although the United States could not protect itself, it could deter the Soviet Union from attacking or undertaking major adventures. Elaborate, controversial, and, I believe, basically correct theories were developed to explain how deterrence was possible in the absence of defense. But we now have the reverse situation, and this represents the failure of both policy and theory. Because the United States had the ability to defeat Saddam and the incentives to do so if necessary, Saddam should have backed down, and invasion should not have been necessary.

Four possible explanations are compatible with general theories of coercion but cast doubt on the effectiveness of many American strategies that could be used to support the Bush Doctrine. First, despite the fact that most observers

the week before: Glenn Kessler, "Powell: Arms Doubts Might Have Affected View of War," *Washington Post*, 3 February 2004.

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believed the American threats, Saddam may not have. Dictatorships are notoriously impervious to unpleasant information; dictators are usually closed-minded and often kill those who bring bad news. Saddam could have believed that even if his troops could not defeat the invading army, they could delay them long enough to force mediation by France and Russia. Perhaps he also thought that the United States would be deterred by the recognition that it could not consolidate its military victory in the face of insurgency, nationalism, and political divisions among the anti-Baathist groups.[28] Although this chain of reasoning now has some appeal, it is far from clear that it was Saddam's and, on balance, it remains hard to see how he could have expected to keep the United States at bay. Second, Saddam could have preferred martyrdom to compliance. Political and perhaps physical death could have given him personal honor and great stature in the Arab world; both honor and stature could have been gratifying and the latter might have furthered his political dreams. Although we cannot rule this out, these values and preferences do not seem to accord with his previous behavior.

Third, Saddam may have underestimated the incentives that Bush had to overthrow him. As hard as this is to believe, Duelfer reports that high-level interrogations indicate that "by late 2002 Saddam had persuaded himself that the United States would not attack Iraq because it already had achieved its objectives of establishing a military presence in the region."[29] Finally, Saddam may have believed that he did not have an alternative that would leave him in power. As Thomas Schelling stressed long ago, making threats credible will do no good unless the actor simultaneously conveys a credible promise not to carry out the undesired action if the other side complies.[30] During most of the run-up to the invasion, the Bush administration made clear that its goal was regime change. Only for a few months in late 2002 when the administration sought support from Congress and the UN did it argue that it would be satisfied by Saddam's compliance with UN resolutions. It would have been easy, and indeed rational, for Saddam to have believed that this American position was a sham, that submitting would give him at best a brief lease on life, and that the only possible route to survival was to bluff and exaggerate his WMD capability in the hope that the United States would back down rather than risk the high casualties that WMD could inflict.[31]

[28] For evidence for reasoning along these lines, see the Duelfer Report, 11, 66–67.

[29] Ibid., 32. It is also possible that Saddam believed that the United States actually knew he did not have WMD and this, too, would have reduced the pressures on the United States to invade: Bob Drogin, "Through Hussein's Looking Glass," *Los Angeles Times*, 12 October 2004. For another attempt to recreate Saddam's views, see David Kay, "Iraq's Weapons of Mass Destruction: Lessons Learned and Unlearned," *Miller Center Report* 20 (Spring/Summer 2004): 7–14. Also see Hans Blix, *Disarming Iraq* (New York: Pantheon, 2004), 265–266.

[30] Thomas Schelling, *Strategy of Conflict* (Cambridge, MA: Harvard University Press, 1960).

[31] Indeed, shortly before the war, the Bush administration returned to the position that to avoid invasion, Saddam would not only have to disarm, but also would have to step down: Felicity Barringer and David Sanger, "U.S. Says Hussein Must Cede Power To Head Off War," *New York Times*, 1 March 2003.

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This argument is certainly plausible and probably is part of the answer. But doubts are raised about the adequacy of this or any particularistic account by the fact that the phenomenon is quite general.[32] The United States failed to understand the beliefs and calculations that led Stalin to authorize the North Korean invasion of the South in June of 1950 or the People's Republic of China intervention several months later, for example. Other countries can be similarly blind: despite its intensive study of its adversary, Israel was unable to grasp the strategy that led Anwar Sadat to launch his attack across the Suez Canal in October of 1973, or to go to Jerusalem four years later, for that matter.

What is most striking and relevant to the Bush Doctrine is that since the end of the Cold War, there have been five instances in which the United States has had to use force because the threat to do so was not perceived as credible despite being supported by adequate capability and willpower. The first case was Panama in 1989. Here it can be argued that Manuel Noriega had little reason to believe the threat, because the United States had not carried out operations like this before, public support was unclear, and memories of Vietnam lingered. Furthermore, as in Iraq, the adversary's leader might not have been able to change his behavior in a way that would have allowed him to remain in power.

The second case was the Gulf War. Because the United States made no attempt to deter an attack on Kuwait, the puzzle here is not why Saddam invaded,[33] but his refusal to withdraw despite the presence of 500,000 coalition troops poised against him. In fact, he may have been convinced at the last minute, with the war attributable to the difficulties in making arrangements with so little time remaining and the American preference to destroy the Iraqi forces rather than allowing them to withdraw and be available for future adventures. Other factors may also have been at work, such as Saddam's residual belief that he could deter the United States by inflicting large numbers of casualties, or his calculation that a bloodless withdrawal would cost him more in the eyes of his own people and his Arab neighbors than would a limited military defeat. Nevertheless, this incident is a disturbing failure of coercion despite massive military superiority and a display that convinced most observers that the United States would use it.

[32] For excellent studies of when coercion does and does not succeed in changing behavior, see Alexander George, David Hall, and William Simons, *The Limits of Coercive Diplomacy* (Boston, MA: Little, Brown, and Co., 1971); Alexander George and William Simons, eds., *The Limits of Coercive Diplomacy*, 2nd ed. (Boulder, CO: Westview, 1994); Robert Art and Patrick Cronin, eds., *The United States and Coercive Diplomacy* (Washington DC: U.S. Institute of Peace, 2003). For a discussion of failures of coercion that cannot be explained by standard theories, see Richard Ned Lebow and Janis Gross Stein, "Deterrence: The Elusive Dependent Variable," *World Politics* 42 (April 1990): 336–369; Richard Ned Lebow and Janis Gross Stein, "Beyond Deterrence," *Journal of Social Issues* 43 (No. 4 1987): 5–72.

[33] For good if conflicting accounts, see Gregory Gause III, "Iraq's Decisions to Go to War, 1980 and 1990," *Middle East Journal* 56 (Winter 2002): 47–70; and Fred Lawson, "Rethinking the Iraqi Invasion of Kuwait," *Review of International Affairs* 1 (Autumn 2001): 1–20.

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The third case is Haiti in 1996. Although Bill Clinton did not have to fight to oust the junta, he did have to put the invasion force into the air before General Raoul Cedras and his colleagues believed that they had no choice but to abdicate.[34] This was, then, a close thing, and although the previous American hesitations may have given Haitian leaders reason to doubt that the United States would use force, as the American position hardened, most observers understood that Clinton would act if he needed to. Of course, here, as in Panama, the resistance was greatly heightened by the fact that the American demand entailed removing the adversary from power. It remains striking, however, that this coercion proved so difficult.

The next case of failed coercion was the operation in Kosovo. Clinton and his colleagues believed that if Slobodan Milosevic did not back down in the face of the American/NATO threat to use force, he would do so after a day or two of bombing. In the event, it took much more than that; although an actual invasion was not needed, the amount of force required was quite large. Again, the reason is, in part, that the United States was requiring a great deal from Milosevic. He viewed Kosovo as part of Serbia, had gained power by arousing public opinion on this issue, and had reason to fear that he would be overthrown if he withdrew, as, in fact, proved to be the case. Indeed, the puzzle of why he did not back down initially is complemented by the questions surrounding his eventual concessions. What happened during the air campaign to lead him to change his mind? Many individual authors are sure of the answer, but each gives a different one and we cannot yet determine the relative importance of the bombing of Serbian army units, the damage to Belgrade, the targeting of assets that belonged to Milosevic's circle of supporters, the lack of backing and eventual pressure from Russia, and the fear of a ground invasion. What is clear and crucial is that the United States did not understand Milosevic's perceptions and strategy, just as he almost surely did not understand the American preferences and options.

These thumbnail sketches lead to four conclusions. First, intelligence failures are often bilateral, if not multilateral.[35] That is, the American surprise at finding that its adversaries could not be coerced was mirrored by the adversaries' misreading of what the United States would do. Second, whatever policy the United States adopts, it is important for it to do a better job of understanding its adversaries and conveying its promises and threats to them. Although the task is difficult, it is striking how little the U.S. government has sought to learn from these troublesome cases, despite the fact that it now has access to many of the decision makers on the other side. The American propensity to treat past events as mere history is nowhere more evident and costly than here.

[34] For the argument that this extreme military pressure made a political settlement more difficult to reach, see Robert Pastor, "The Delicate Balance Between Coercion and Diplomacy: The Case of Haiti, 1994" in Art and Cronin, eds., *The United States and Coercive Diplomacy*, 119–156.

[35] For further discussion, see Robert Jervis, *System Effects: Complexity in Political and Social Life* (Princeton, NJ: Princeton University Press, 1997), 44–45.

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Third, it is unlikely that even excellent studies will provide a base of knowledge sufficient to prevent all such errors in the future. The ways in which adversaries can perceive and calculate are too numerous and surprising to permit confident projections. The past decade's meetings of Cold War veterans reveal mutual amazement that the other side could have believed what it did, and the current task is more difficult still because the United States is no longer dealing with one fairly stable adversary over a prolonged period.

Finally, the Bush Doctrine places heavy demands on judging adversaries. If the United States is to block proliferation and engage in preventive wars when rogues get close to WMD, it will need a far better understanding of others than it has been able to muster so far. Conversely, if the United States is not able to gain more discriminating intelligence about the capabilities and intentions of potential rogues, the Doctrine will require the use of force to change any number of regimes. But it is unlikely that American domestic politics would support such a policy.

Democracy as the Answer?

Here, as in the earlier problem of intelligence failure, the Bush administration's faith in democracy provides a rebuttal: these threats will disappear as more and more countries become democratic. I am doubtful, however, that the United States will, in fact, vigorously support the establishment of democracies abroad, that such efforts will succeed, and that democratic regimes will always further American interests.

The question of whether to press for democracies abroad arose during the Cold War, and the basic problem was summarized in John F. Kennedy's oft-quoted reaction when the dictator of the Dominican Republic, Rafael Trujillo, was assassinated in May of 1961: "There are three possibilities, in descending order of preference: a decent democratic regime, a continuation of the Trujillo regime, or a Castro regime. We ought to aim at the first, but we really can't renounce the second until we are sure that we can avoid the third."[36] Despite the fact that the United States has more room to maneuver now that it does not have to worry about a new regime allying with a major enemy state, there appears to be a great deal of continuity between the U.S. policy during the Cold War, what it did in the first decade after it, and Bush's actions. While the United States hopes to replace hostile dictatorships with democracies, only rarely does it push for democracy when doing so could destabilize friendly regimes. It would be tiresome to recount the sorry but perhaps sensible history of U.S. policies toward Egypt, Pakistan, and Saudi Arabia, and I will just note that when the latter arrested reformers who had called for a constitutional monar-

[36] Quoted in Arthur Schlesinger, Jr., *A Thousand Days: John F. Kennedy in the White House* (Boston, MA: Houghton Mifflin, 1965), 769.

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chy and independent human rights monitoring, Colin Powell said that "each nation has to find its own path and follow that path at its own speed."[37] Over the past year, Bush and his colleagues have taken a somewhat stronger position, but the depth of the American commitment still remains unclear.[38]

Ironically, the war on terrorism, although accompanied by greater stress on the value of democracy, has increased the costs of acting accordingly by increasing the American need for allies throughout the globe. Without the war, the United States might have put more pressure on the nondemocratic states of the former Soviet Union, or at least not supported them. But the need for bases in Central Asia has led the United States to embrace a particularly unsavory set of regimes. The pressure to democratize Pakistan is similarly minimal, in part because of the fear that greater responsiveness to public opinion would lead to an unacceptable Islamic regime. This danger, and that of any kind of instability, is magnified because of Pakistan's nuclear arsenal. Although Egypt lacks nuclear weapons, instability in such a powerful and centrally placed country is also greatly to be feared. In other parts of the Middle East and areas such as the Caspian basin, it is the need for a secure flow of oil that leads the United States to support nondemocratic regimes. As events in Uzbekistan in the spring of 2005 show, it seems that there are few places that are unimportant enough to run the experiment of vigorously supporting democracies where they do not now exist when the existing repressive regime has good control. Bush can increase the (verbal) pressure on Vladimir Putin to democratize, in part because his government has such a secure grip.

Furthermore, the Bush administration appears to be driven more by the politics of the regimes it is dealing with than by an abstract commitment to democracy, as is shown by its stance toward if not its role in the opposition (constitutional or otherwise) to, Hugo Chavez in Venezuela and Jean-Bertrand Aristide in Haiti. In a continuation of the Cold War pattern, leftist governments are seen as dangerous and authoritarian regimes of the right are acceptable. On other occasions, it is the specific policies of a leader that make him unacceptable despite his popular approval. The American refusal to treat Yasser Arafat as the Palestinians' leader was rooted in the belief that he was unwilling to stop terrorism, not in his inability to win an election, and the United States withdrew its recognition of President Rauf Denktash in Turkish Cyprus when he opposed proposals for reunifying the island.[39]

[37] Quoted in Barbara Slavin, "U.S. Softens Stance on Mideast Democratic Reforms," *USA Today*, 12 April 2004; for later developments, see Barbara Slavin, "U.S. Toning Down Goals for Mideast," *USA Today*, 27 May 2004. For a general discussion of the prospects for liberalization in the Middle East and the American efforts, see Tamara Cofman Wittes, "The Promise of American Liberalism," *Policy Review* 125 (June/July 2004): 61–76.

[38] For some of the tensions and contradictions, see Elisabeth Bumiller, "The First Lady's Mideast Sandstorm," *New York Times*, 6 June 2005.

[39] No author, "U.S. Recognizes New Leader for Turkish Cypriots," *New York Times*, 27 May 2004; The refusal to deal with Arafat has been extended to Hamas, despite its electoral success: Steven Weisman, "U.S. to Shun Hamas Members, Even if Democratically Elected," *New York Times*, 7 June 2005.

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But even vigorous support for democracy might not produce that outcome. The fate of Iraq may not yet be determined, and, at this writing, anything appears to be possible, from a partially democratic regime to a civil war to the return of a national strongman to the loss of national unity. But it is hard to believe that the foreseeable future will see a full-fledged democracy, with extensive rule of law, open competition, a free press, and checks and balances.[40] The best that can be hoped for would be a sort of semi-democracy, such as we see in Russia or Nigeria, to take two quite different countries.

The Bush administration's position is much more optimistic, however, arguing that for democracy to flourish, all that is needed is for repression to be struck down. With a bit of support, all countries can become democratic; far from being the product of unusually propitious circumstances, a free and pluralist system is the "natural order" that will prevail unless something special intervenes.[41] President Bush devoted a full speech to this subject, saying: "Time after time, observers have questioned whether this country, or that people, or this group, are 'ready' for democracy—as if freedom were a prize you win for meeting our own Western standards of progress. In fact, the daily work of democracy is itself the path of progress."[42] This means that for him, the prospects for Iraq are bright. In his view, although it is true that you cannot force people to be democratic, this is not necessary. All that is needed is to allow people to be democratic.

We would all like this vision to be true, but it probably is not. Even if there are no conditions that are literally necessary for the establishment of democracy, this form of government is not equally likely to flourish under all conditions. Poverty, deep divisions, the fusion of secular and religious authority, militaristic traditions and institutions, and a paucity of attractive careers for defeated politicians all inhibit democracy.[43] Although Bush is at least partly right

[40] A cautionary tale is provide by the memoirs of the British commander in the newly created Iraq after World War I: Sir Arnold Wilson, *Mesopotamia 1917–1920: A Clash of Loyalties* (London: Oxford University Press, 1931), 259, 268–272, 311–312.

[41] For the concept of natural order, see Stephen Toulmin, *Foresight and Understanding: An Enquiry into the Aims of Science* (Bloomington: Indiana University Press, 1961). For an intriguing argument that democracy will indeed flourish in the absence of imposed obstacles, see John Mueller, *Capitalism, Democracy, and Ralph's Pretty Good Grocery* (Princeton, NJ: Princeton University Press, 1999); for an excellent analysis that is skeptical of the ease of democratic transitions, see Thomas Carothers, "The End of the Transition Paradigm," *Journal of Democracy* 13 (January 2002): 5–21.

[42] "President Bush Discusses Freedom in Iraq and Middle East," White House press release, 6 November 2003, 3; also see "President Discusses the Future of Iraq," speech to the American Enterprise Institute, White House press release, 26 February 2003; "President Attends International Republican Institute Dinner," White House press release, 18 May 2005.

[43] See Ian Shapiro, "The State of Democratic Theory" in Ira Katznelson, ed., *Political Science: The State of the Discipline* (New York: Norton, 2002), 235–265; Barbara Geddes, "The Great Transformation in the Study of Politics in Developing Countries" in Ira Katznelson, ed., *Political Science: The State of the Discipline* (New York: Norton, 2002), 342–370; Adam Przeworski, Michael Alvaraz, Jose Antonio Cheibub, and Fernando Limongi, *Democracy and Development: Political Institutions and Well-Being in the World, 1950–1990* (Cambridge: Cambridge University Press, 2000); for a critique, see Carles Boix and Susan Stokes, "Endogenous Democratization," *World Politics* 55 (July 2003): 517–549.

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in arguing that some of these conditions arise out of authoritarian regimes, they are causes as well and there is no reason to expect the United States to be able to make most countries democratic even if it were to bend all its efforts to this end. Indeed, movements for reform and democracy may suffer if they are seen as excessively beholden to the United States. As Colin Powell noted after one American attempt of this type had to be abandoned in the face of cries of U.S. bullying, "I think we are now getting a better understanding with the Arab nations that it has to be something that comes from them. If you don't want us to help, you don't want us to help."[44]

Is it even true that the world would be safer and the United States better off if many more countries were democratic? The best-established claim that democracies rarely, if ever, fight each other is not entirely secure, and the more sophisticated versions of this theory stress that joint democracy will not necessarily produce peace unless other factors, especially economic interdependence and a commitment to human rights, are present as well. This makes sense, because democracy is compatible with irreconcilable conflicts of interest. Furthermore, even if well-established democracies do not fight each other, states that are undergoing transitions to democracy do not appear to be similarly pacifistic.[45] Putting these problems aside, there is no reason to expect democracies to be able to get along well with nondemocracies, which means that establishing democracy in Iraq or in any other country will not make the world more peaceful unless its neighbors are similarly transformed.

The Bush administration has also argued that other countries are much more likely to support American foreign policy objectives if they are democratic. The basic point that democracies limit the power of rulers has much to be said for it, but it is far from clear how far this will translate into shared foreign policy goals. After all, at bottom, democracy means that a state's policy will at least roughly reflect the objectives and values of the population, and there is no reason to believe that these should be compatible between one country and another. Why would a democratic Iraq share American views on the Arab–Israeli dispute, for example? Would a democratic Iran be a closer ally than the Shah's regime was? If Pakistan were truly democratic, would it oppose Islamic terrorism? In many cases, if other countries become more responsive to public opinion, they will become more anti-American. In the key Arab states of Jordan, Egypt, and Saudi Arabia, cooperation with the United States could not be sustained if the public had greater influence; the elections in Pakistan in September of 2002 reduced the regime's stability and complicated the efforts to combat al Qaeda, results that would have been magnified had the elections been truly free; in Europe, the public is even more critical of the United States than are the leaders. In the spring of 2004, Paul Bremer declared that "basically

[44] Quoted in Steven Weisman, "U.S. Muffles Sweeping Call To Democracy In Mideast," *New York Times*, 12 March 2004.

[45] Jack Snyder and Edward Mansfield, *Electing to Fight: Why Emerging Democracies Go to War* (Cambridge, MA: MIT Press, 2005).

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Iraq is on track to realize the kind of Iraq that Iraqis want and that Americans want, which is a democratic Iraq."[46] Leaving aside the unwarranted optimism, the assumption that Iraqis and Americans want the same thing reveals a touching but misplaced faith in universal values and harmony of interests among peoples and therefore among democratic regimes. Indeed, the only possible way for Iraq to be pro-American may be for it to be nondemocratic (although it is likely to end up being both authoritarian and anti-American).[47]

The Shape of Things to Come?

Over eighty years ago, Walter Lippmann famously argued that the public could not act responsibly in politics, and especially in foreign policy, because it was driven by stereotypes and images of the external world that were crude and rigid.[48] There is much to this, but ironically it now applies to large segments of the Republican foreign policy elite more than to the general public. Lippmann's description of how stereotypes do more than conserve our intellectual effort is particularly appropriate and disturbing: "The system of stereotypes may be the core of our personal tradition, the defenses of our position in society. . . . They may not be a complete picture of the world, but they are a picture of a possible world to which we are adapted. In that world people and things have their well-known places, and do certain expected things."[49] Ideologies can provide a comforting way of understanding a complex world and a guide to swift action. But even under the best of circumstances, they are likely to distort, to miss a great deal, and to inhibit adjustment to changing circumstances. When the world is new and confusing, the temptation to rely on stereotypes and ideologies is greatest. But these are exactly the circumstances under which this pattern in most dangerous.

The Bush Doctrine is extraordinarily ambitious and relies heavily on the premise that a state's foreign policy is largely determined by its domestic system. By rejecting the standard international politics argument that the behavior of states is most strongly influenced by their external environment, the Bush

[46] Quoted in Douglas Jehl, "U.S. Says It Will Move Gingerly Against Sadr," *New York Times*, 7 April 2004. Similarly, in the run-up to the war in Kosovo, General Wesley Clark endorsed the view that the problem was caused by the fact that the Belgrade regime was not a democratic one. Wesley K. Clark, *Waging Modern War: Bosnia, Kosovo, and the Future of Conflict* (New York: Public Affairs Press, 2002), 128.

[47] Public opinion data in the spring of 2004 was ambivalent but not encouraging: while most Iraqis were glad that Saddam was ousted, said their own lives were better off because of the invasion, and thought that their country would be less safe if Coalition forces left, they viewed those forces as occupiers rather than liberators, thought they should leave immediately, and viewed George Bush unfavorably; accessed at http://www.cnn.com/2004/world/meast/04/28/iraq.poll/iraq/poll.4.28.pdf, 5 May 2004.

[48] Walter Lippmann, *Public Opinion* (New York: Macmillan, 1922).

[49] Ibid., 95, 381–382. It is also worth noting that Lippmann's chapter on intelligence argues: "It is no accident that the best diplomatic service in the world is the one in which the divorce between the assembling of knowledge and the control of policy is most perfect."

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administration is led to conclude that tyrannies are uniquely dangerous, especially because of the dangers posed by WMD. As the President said in his second inaugural address, "The urgent requirement of our nation's security . . . [is the] ending of tyranny in the world." This means that American vital interest requires not the maintenance of the status quo, but the transformation of world politics, and indeed, of the domestic systems of many countries. This project is more far-reaching than traditional empires that sought only to conquer. Although difficult to achieve, this could be accomplished by superior military power. For the transformation Bush has in mind, superior force is necessary but not sufficient; it can succeed only through the efforts of others. Furthermore, not only must the populations and elites in currently dictatorial regimes undergo democratic transformations, but America's allies must work with it in a wide variety of projects to sustain the political and economic infrastructure of the new world. The unilateralist impulses in American policy are likely to inhibit such cooperation, however.

If the Bush administration overestimates the extent to which it can and needs to make the world democratic, it incorrectly assumes that the American domestic system will provide the steady support that the Doctrine requires. The very American preponderance that makes the Doctrine possible also gives the United States great freedom of action. Although states with great power often find projects that require its exercise,[50] this particular project is not compelled or likely to be supported over the long run by America's inward-looking public opinion and fragmented domestic political system.

Although it is unlikely that the Bush Doctrine can be sustained, future events will, of course, affect its prospects. Most obviously, a great deal depends on developments in Iraq. Although a full analysis is beyond the scope of this article (and beyond my knowledge), as I noted earlier, putting down the insurgency will not automatically solve the political problems that, over the long run, pose a greater challenge to Iraq and to American hopes for it and the region. Even when the violent opposition of the Sunnis comes to an end, the difficulties in creating a stable and tolerant Iraq will remain.

A second uncertainty concerns the war on terror in general and the prospects of another major attack on the United States in particular. It is almost certain that the coming decade will see large terrorist attacks on the West, perhaps with WMD, especially if we put radiological weapons ("dirty bombs") in this category. What is much less predictable is the reaction to this. It is possible that the American public would see an attack as showing the failure of the Bush Doctrine and would call for more attention to homeland defense and less to taxing foreign policy goals. It is also possible that the response would be more preventive strikes and perhaps redoubled efforts to encourage democratic regimes. In either event, we are likely to see heightened restrictions against immigrants as well as restrictions on civil liberties. Although these will not directly affect the fate of the Bush Doctrine, they are likely to reduce America's appeal abroad.

[50] For further discussion, see Jervis, "Understanding the Bush Doctrine," 379–383.

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Turning to what is already clear from events since September 11, the Bush Doctrine and the war in Iraq have weakened Western unity and called into question the potency of deterrence by claiming that the United States could not have contained a nuclear-armed Saddam. I think this belief was incorrect,[51] but because deterrence rests on potential challengers' understanding that the defender is confident of its deterrent threats, the American demonstration of its lack of faith in this instrument will diminish its utility. Even if future administrations adopt a different stance and affirm the role of deterrence, some damage may be permanent.

The largely unilateral overthrow of Saddam has set in motion even more important irreversible changes in relations with allies. Before Bush came to power, the emerging consensus was that the United States was committed to multilateralism.[52] This is not to say that it would never act without the consent of its leading allies, but that on major issues, it would consult fully, listen carefully, and give significant weight to allied views. International institutions, deeply ingrained habits, the sense of shared values and interests, close connections at the bureaucratic levels, public support for this way of proceeding, and the understanding that long-run cooperation was possible only if the allies had faith that the United States would not exploit its superior power position all led to a structure that inhibited American unilateralism. This partial world order, it was argued, served American interests as well as those of its partners, because it induced the latter to cooperate with each other and with the United States, reduced needless frictions, and laid the foundations for prosperity and joint measures to solve common problems. This way of doing business had such deep roots that it could absorb exogenous shocks and the election of new leaders.

Recent events have shown that although the argument may have been correct normatively, it was not correct empirically. It is quite possibly true that it would have been wise for the United States to have continued on the multilateral path, to have maintained a broad coalition, and to have given its allies more influence over the way it fought terrorism. But we can now see that it was wrong to conclude that the international system and U.S. policy had evolved to a point that compelled this approach.

[51] See Robert Jervis, *American Foreign Policy in a New Era* (New York: Routledge, 2005), ch. 3.

[52] See, for example, G. John Ikenberry, *After Victory: Institutions, Strategic Restraint, and the Rebuilding of Order After Major War* (Princeton, NJ: Princeton University Press, 2001); John Gerard Ruggie, *Winning the Peace: America and the New World Order* (New York: Columbia University Press, 1996); John Steinbrunner, *Principles of Global Security* (Washington DC: Brookings Institution, 2000). See Joseph Nye, *The Paradox of American Power: Why the World's Only Superpower Can't Go It Alone* (New York: Oxford University Press, 2002), 154–163, for a good discussion of the different circumstances under which unilateralism and multilateralism are appropriate; also see John Van Oudenaren, "What Is 'Multilateral'?" *Policy Review* 117 (February–March 2003): 33–47; and John Van Oudenaren, "Unipolar Versus Unilateral, *Policy Review* 124 (April–May 2004): 63–74. For the argument that even in the Cold War, the United States was unilateralist, see Sestanovich, "American Maximalism," and Betts, "Political Support System for American Primacy."

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This does not mean that the United States is now firmly set on a new course. Indeed, I do not think that the Bush Doctrine can be sustained. Bush's domestic support rests on the belief that he is making the United States safer, not on an endorsement of a wider transformationist agenda. Especially in the absence of a clear political victory in Iraq, support for assertive hegemony is limited at best. But if Bush is forced to retract, he will not revert to the sort of coalition-building that Clinton favored. Of course there will be a new president elected in 2008, but even if he or she wanted to pick up where Clinton left off, this will not be possible. Although allies would meet the United States more than halfway in their relief that policy had changed, they would realize that the permanence of the new American policy could not be guaranteed. The familiar role of anarchy in limiting the ability of states to bind themselves has been highlighted by Bush's behavior and will not be forgotten.

The United States and others, then, face a difficult task. The collapse of the Bush foreign policy will not leave clear ground on which to build: new policies and forms of cooperation will have to be jury-rigged above the rubble of the recent past. The Bush administration having asserted the right (and the duty) to maintain order and provide what it believes to be collective goods, an American retraction will be greeted with initial relief by many, but it is also likely to produce disorder, unpredictability, and opportunities for others.

Machiavelli famously asked whether it is better to be feared or to be loved. The problem for the United States is that it is likely to be neither. Bush's unilateralism and perceived bellicosity have weakened ties to allies, dissipated much of the sympathy that the United States had garnered after September 11, and convinced many people that America was seeking an empire with little room for their interests or values. It will be very hard for any future administration to regain the territory that has been lost. At best, the policy is a gigantic gamble that a stable and decent regime can be established in Iraq and that this can produce reform in the other countries and a settlement between Israel and the Palestinians. In this case, the United States might gain much more support and approval, if not love. But anything less will leave the United States looking neither strong nor benign, and we may find that the only thing worse than a successful hegemon is a failed one. We are headed for a difficult world, one that is not likely to fit any of our ideologies or simple theories.*

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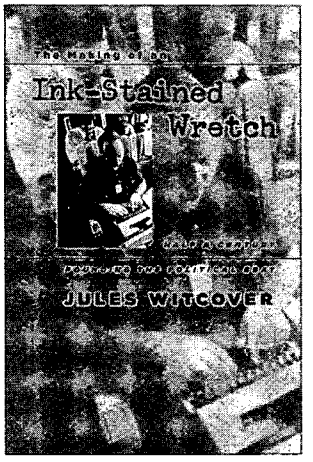

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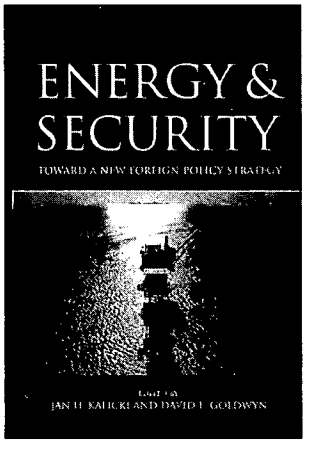

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Complications of American Democracy: Elections Are Not Enough

DEMETRIOS JAMES CARALEY

An elective despotism was not the government we fought for.
—Thomas Jefferson

The American democracy is a very complicated one. The Framers thought that three major features were critical to the working of our democratic institutions: free elections, separation of powers with checks and balances, and government limited by constitutional guarantees, especially those in the Bill of Rights. The aims of this essay are to remind the reader of how those complications were justified by the Framers, to raise implicitly the realization that exporting democracy to other lands is not just a matter of having one set of free elections, and to comment explicitly on whether some traditional characteristics of American democracy have come under serious threat. A pessimistic reading of developments would argue that we are already on the way to government by an elective tyranny of the majority that violates checks and balances and the rights of the minority. The more pessimistic reading is that this tyranny of the majority is even trying to impose the doctrines of religious conservativism on officials and on the public in direct violation of the First Amendment and of the constitutional provision barring religious tests for holding public office. And feeding that pessimism is the absence in 2005 of any major political or public leader with the courage and self-interest, as John F. Kennedy had in 1960, to take on this religious right head-on and say, as Kennedy did during his campaign, "I [do not] look with favor upon those who would work to subvert Article VI of the Constitution by requiring a religious test—even by indirection—for it. If they disagree with that safeguard they should be out openly working to repeal it."[1]

[1] Remarks of Senator John F. Kennedy on church and state delivered to the Greater Houston Ministerial Association, Houston, Texas; www.jfklibrary.org/j091260.htm. I have incorporated virtually the entire speech into an appendix because of its topicality and the forcefulness of its arguments.

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Functions of Elections

Elections have always been deemed important. According to the Founding Fathers—who did not claim to be democrats—elections were the main guarantee against oppressive government. In the Declaration of Independence, the Founders argued as a "self-evident" "truth" that governments derived "their just powers from the consent of the governed." Even before the Revolutionary War, colonists had argued that the lack of opportunity to vote for representatives to Parliament made its laws illegitimate when applied to them. Moreover, the colonists had over a century of experience with elections; they had been voting for at least one house of the normally two-house colonial legislatures and thus had the experience of being voted in and out of office.

In the Constitution of 1787, the Founders provided for the direct election of the members of the House of Representatives by those eligible in each state to vote for the lower house of the state legislature, a large franchise for the time, although it excluded women and people of color. The Founders made members of the Senate appointive by their state legislatures, which contained representatives elected directly by the people. In the clumsy electoral vote system for choosing the president, the Founders did not make the president a popularly elective official.[2] But they also did not give the appointment of the president to Congress. If they had, the chances of Congress agreeing later to a constitutional amendment to provide for the almost direct election of the president that developed would have been zero.

The Founders deliberately left open for each state to decide how its presidential electors were to be selected. As early as Thomas Jefferson's election in 1800, the electors did not act as sets of elites who, as the Founders intended, used independent judgment to cast their ballots for the person the electors felt best fit to become president. By 1800, the electors had become slates of party rubber stamps, who promised, if elected, to cast their electoral votes for one or the other party's informal nominee—John Adams for the Federalists and Thomas Jefferson for the Jeffersonian-Republicans. By Andrew Jackson's presidency, almost all state legislatures mandated that electors be chosen by essentially universal white, male suffrage.

Today we take the choosing of rulers in elections for granted, but this was not the case in 1787. The most "election-based" government of the time was that of the British. And while Britain had restricted its king to reigning rather than ruling and was governed by a cabinet and Parliament, the right to vote for members of Parliament was extended to only about one-fifth of the adult male population.

The Founders insisted that this was not enough and that it was "essential" that the right to vote be extended to:

[2] Hamilton had argued with his typical modesty that with respect to "the mode of selection of the Chief Magistrate, . . . I affirm that if the manner of it not be perfect, it is at least excellent." *The Federalist Papers, No. 68.*

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> the great body of the society, not . . . an inconsiderable proportion, or a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans, and claim for their government the honorable title of republic.[3]

The Founders were proud that in the House of Representatives they provided the strongest restraint to would-be oppressive rulers—frequent elections occurring every two years.[4] As Alexander Hamilton asked in *The Federalist, No. 35*:

> Is it not natural that a man who is a candidate for the favor of the people, and who is dependent on the suffrages of his fellow-citizens for the continuation of his public honors, should take care to inform himself of their dispositions and inclinations . . . ? This dependence [creates] strong chords of sympathy between the Representative and the constituent.[5]

The Founders never stated that they were building a "democracy." To them, a "democracy" meant "direct democracy," "a society consisting of a small number of citizens who assemble and administer the government in person," and where there would be "nothing to check the inducements to sacrifice the weaker party or an obnoxious individual."[6] The Founders saw democracy, through the reading of Plato and Thucydides, as equivalent to a tyranny of the majority or even mob rule. They feared such a government would expropriate the rights and property of the minority of the better off and oppress unpopular individuals, as, for example, the Athenian democracy had done in executing Socrates.

The Founders preferred what they called a "republic," because in a republic "the scheme of representation takes place," and the government is delegated "to a small number of citizens." This small number would be able "to refine and enlarge the public views" and their wisdom could "best discern the true interest of their country."[7] Since it was taken for granted that the legislative bodies would function by majority rule, they had set up the framework for the representative democracy that continues to exist.

There was, however, one built-in constitutional exception to representative majority rule, and that was in the Senate, where senators representing states with great disparities in population were granted equal voting power. Members of the constitutional convention from states with small populations would not accept a constitution that allowed a small number of states with the largest populations to be able to prevail in a single legislative body, as the original Virginia Plan proposed. In 1790, the largest states, Virginia, Pennsylvania, and North

[3] *The Federalist Papers, No. 39* (Madison). Madison had also experienced what he considered tyranny of the majority in the Virginia state government.

[4] *The Federalist Papers, No. 37* (Madison).

[5] *The Federalist Papers, No. 35* (Hamilton).

[6] *The Federalist Papers, No. 10* (Madison).

[7] *The Federalist Papers, No. 10* (Madison).

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Carolina, had populations of 691,737, 434,373, and 393,751, respectively, while the smallest states, Delaware, Rhode Island, and Georgia had populations of only 59,056, 68,825, and 82,548.[8] Because the House of Representatives did reflect population, the granting of equal voting power in the Senate was "the price of union."[9] This disparity still exists today, where two senators each represent the populous states of California, Texas, and New York, with populations of 35,893,799, 22,490,022, and 19,227,088, and two senators each represent the least populous states, Wyoming, Vermont, and North Dakota, with populations of only 506,529, 621,394, and 634,366.[10] As the price of union, the equal voting provision for the Senate was so important that the Constitution provides that it cannot even be changed by constitutional amendment unless the states being affected adversely each consent to it.[11] The electoral vote system for electing the president, which grants electoral votes to states equal to their number of representatives in the House plus their two senators, also dampens the majority rule principle, since the vote of voters from the small states counts somewhat more than that of voters from the larger states.

Do Elections Serve Any Purpose?

Because our top officials are chosen in free elections—because, as in the literal translation of democracy from the Greek, the *demos* or "people" *kratein* or "hold power"—what we have in our national government certainly is a democracy. But it is a democracy of a special kind and most emphatically not a direct, majority-rule democracy. The chief role of voters in federal elections is not to decide policy in a kind of continuing referendum, but to elect officials who make policy. And the top official elected—the president—may be chosen as the result of his party affiliation and personality characteristics, such as his likability and warmth relative to his opponent's, rather than on the basis of his policy stances and, indeed, even despite policy stances that the voters dislike.

By choosing a president, voters also do have a major, albeit unpredictable, impact on policy. Given the president's Article II powers of appointment,[12] the election of one candidate instead of the other means the appointment of one rather than another set of high-level presidential appointees (some needing but almost always receiving senatorial confirmation): departmental cabinet and subcabinet heads; White House staff members, including a chief of staff and the national security adviser; a council of economic advisers; ambassadors; federal reserve board members and the chairman; and especially District Court, Court

[8] Bureau of the Census, Table 16, *Population: 1790 to 1990*, United States Summary: Population and Housing Counts, 1993.

[9] See Herbert Agar, *The Price of Union* (Boston: Houghton-Mifflin, 1966).

[10] Bureau of the Census, *United States, Regions, States and Puerto Rico Population Estimates and Population Change*, Press Release, 22 December 2004.

[11] U.S. Const. art. I, sec. 3.

[12] U.S. Const. art. II, sec. 2.

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of Appeals, and Supreme Court judges with lifetime terms. The substantial discretion that top executive branch officials and members of the judiciary have in making executive and judicial decisions allows changes in policy even without the president and voting majorities in Congress acting through legislation.

Elections, finally, do serve another important policy function, even though it is neither much discussed nor much appreciated. Some policy departures are not made or even attempted because of the anticipated reaction of the voters in the next election. If there were no elections, even imperfectly conducted as they are, the preferences of the citizenry could be largely disregarded because the public would lose its chief sanction. As A. D. Lindsay once put it, the voters know if the "shoes pinch" and if they didn't have the power to remove those who make bad shoes, the incumbent shoemakers could stay in power forever with the claim that the shoes pinch not because the shoes were badly made but because the voters have crooked feet.[13]

Today, as a result of constitutional provisions and the 15th, 17th, 19th, and 26th Amendments, plus the Voting Rights Act of 1965, presidential electors, senators, and representatives are directly chosen by the people in all states and the suffrage for all offices has essentially been extended to every citizen over the age of eighteen, regardless of race or gender. There is, however, the antidemocratic proviso in the election of the president that formally persists: After the 2000 presidential election, the electoral vote majority hinged on how the popular vote would come out after recounts in Florida. The Supreme Court took jurisdiction in the case of *Bush v. Gore*,[14] and stopped the recounts. The Court reminded us that there is no constitutional right for voters to choose electors, and under provisions of Article II, the state legislatures are empowered to decide whether the electors can be chosen by methods other than the voters, including by the legislatures themselves.[15] According to the majority of the Court, this means of appointment could be mandated even after the popular vote has taken place,[16] so that in the leading democracy of the world, its citizens still do not have a constitutional right to vote directly or even indirectly for its president.[17] As the Supreme Court majority opinion in *Bush v. Gore* reminded us:

> The individual citizen has no federal constitutional right to vote for electors for the President of the United States unless and until the state legislature chooses a statewide election as the means to implement its power to appoint members of the Electoral College. . . . When the state legislature vests the right to vote for the President in its people, the right to vote as the legislature has prescribed is fundamental; and one source of its fundamental nature lies in the equal weight accorded to each vote and the equal dignity owed to each voter. The State, of course, after granting

[13] A. D. Lindsay, *The Modern Democratic State* (New York: Oxford University Press, 1962).

[14] *Bush v. Gore*, 531 U.S. 98 (2000).

[15] U.S. Const. art. II, sec. 1.

[16] *Bush v. Gore.*

[17] Demetrios James Caraley, "Why Americans Need a Constitutional Right to Vote for Presidential Electors," *Political Science Quarterly*, 116 (Spring 2001): 1–3.

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the franchise in the special context of Article II, can take back the power to appoint electors.[18]

Separation of Powers and Checks and Balances

Elections were not the only features that were built into American representative democracy by the Founders. The Founding Fathers saw elections as essential protection against oppressive rulers and, at the extreme, against tyranny, but not as sufficient protection. Jefferson wrote in his "Notes on the State of Virginia" that if "all the powers of government, legislative, executive, and judiciary" were given to the legislative body, which Jefferson assumed would be elective:

> it will be no alleviation, that these powers will be exercised by a plurality of hands, and not by a single one. One hundred and seventy-three despots would surely be as oppressive as one. . . . An elective despotism was not the government we fought for.[19]

The Founders felt the same way about an all-powerful chief executive, who they feared would be the equivalent of an elective king.

To prevent this kind of "elective despotism" or "tyranny," they resorted to "auxiliary precautions." In the new national government, they separated constitutionally—as a matter of supreme constitutional law not subject to change by ordinary legislation passed by congressional majorities and signed by the president—they separated governmental powers among the executive, the legislative, and the judiciary. This way they gave "to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others." As Madison phrased it:

> Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people [that is, elections] is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.[20]

The Founders were particularly specific about separating the power to declare war from the power to conduct a war as commander in chief. Alexander

[18] *Bush v. Gore.*

[19] Quoted in *The Federalist Papers, No. 51* (Madison).

[20] *The Federalist Papers, No. 51* (Madison).

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Hamilton explained in *The Federalist, No. 69*, the clear distinction between the presidential position of commander in chief and the congressional power to declare war:

> The President is to be commander-in-chief of the army and navy of the United States. . . . In this respect his authority would be nominally the same with that of the king of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the Confederacy; while that of the British king extends to the *DECLARING* of war and to the *RAISING* and *REGULATING* of fleets and armies, all [of] which, by the Constitution under consideration, would appertain to the legislature.[21]

The Framers thus specifically insisted that the president as commander in chief, a single person, would not possess the power to make war, because that was akin to the monarchical power of a king, and that was not the form of government for which they had fought.

Constitutionally Limited Government and Judicial Review

Over and above trying to protect the people against oppression and tyranny by means of elections and separation of powers, the Founders also bequeathed to us a government that as a whole was constitutionally limited. Certain kinds of individual activity and belief and certain procedures in criminal trials, the Founders believed, were so important that they had to be protected even against voting majorities working through elections and with the support of a particular president and majorities in a particular Congress.

The Constitution written by the Founders contained, as Hamilton put it, "certain specified exceptions to the legislative authority; such, for instance, as that it shall pass no bills of attainder, no *ex post facto* laws, and the like."[22] The Founders also mandated in the Constitution, under the powers of Congress, that "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in cases of Rebellion or Invasion the public Safety may require it."[23] Further limitations were to be those protective of civil liberties and procedural due process in criminal trials that everyone agreed would be added to the Constitution as soon as the first Congress met and had the opportunity to propose the necessary amendments, and the states had the opportunity to ratify them. These protections now constitute the Bill of Rights.

But these limitations could be preserved, according to the Founders, "no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this all the reservations of particular rights or privileges would amount to

[21] *The Federalist Papers, No. 69* (Hamilton).
[22] *The Federalist Papers, No. 78* (Hamilton).
[23] U.S. Const. art. I, sec. 9.

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nothing."[24] Justice Robert Jackson, speaking for the Supreme Court when it declared unconstitutional in 1943, in the middle of World War II, the requiring of schoolchildren to say the Pledge of Allegiance and salute the flag every morning, probably put it best:

> The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections. . . .
>
> If there is any fixed star in our Constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, in nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances that permit an exception, they do not now occur to us.[25]

Constitutional safeguards of free speech, free press, freedom of assembly, and freedom of religion for those who become at odds with majority thinking, and also constitutional procedural due process in criminal trials for individuals accused of crimes, have historically been perceived as not being in the interests of liberals only, or of conservatives only, but in the interests of all. This is because no one can know in advance when he or she will be in the minority in terms of party or ideological viewpoint or be unjustly accused of a crime and, therefore, will need constitutional protections to escape oppression of the weak and innocent by the strong.

But equally important, these constitutional limits on majorities are also essential for maintaining our political system as a democratic government. Constitutional limitations, beyond the reach of majorities to change, ensure that losers in a particular election will be allowed to survive as the "outs." Not only will the losers be allowed just to survive, they will also not be arrested or imprisoned, and they will be allowed to compete for office unhindered by the majority-supported "ins," whom they will be trying to displace in the next election.

The Constitution makes no provision for political parties. According to nineteenth-century journalist Henry Jones Ford, it was the "great unconscious achievement" of Jefferson to take advantage of these "open constitutional channels of political agitation," and create a party as early as 1796.[26] Jefferson and his allies thus channeled and organized the forces of discontent against the Washington-Adams Federalists through elections, so that by the election of 1800, change "became possible without destruction."[27]

An even more crucial element in preserving democracy was the noninterference with Jefferson's election campaign by the Federalists and the acquies-

[24] *The Federalist Papers, No. 78* (Hamilton).

[25] *West Virginia Board of Education v. Barnett*, 319 U.S. 624 (1943).

[26] Henry Jones Ford, *The Rise and Growth of American Politics* (New York: Macmillan, 1898), 126.

[27] Ibid.

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cent, peaceful, and voluntary leaving of presidential power by John Adams after Jefferson won the 1800 election. This voluntary relinquishing of the presidency and control of Congress in 1801 by the Federalists to the victorious Jeffersonian-Republicans established the precedent that fundamental change in personnel and policies could be accomplished by free elections protected by constitutional guarantees without the violence of a war, revolution, or coup d'etat.

In only one American election, that of 1860, did the losers refuse to accept the election returns peacefully and chose instead to resist them by the use of force. The result was the Civil War and the greatest loss of life of any war in which the United States has participated.

Constitutional limits obviously put a damper on the ability of a newly elected majority to enact its programs if they contain infringements of civil liberties and procedural due process as most recently defined by the Supreme Court by justices with lifetime tenure. This doesn't mean that majorities can be frustrated forever and that here is, finally, the fatal dilemma in our democracy. It does mean that to prevail, those majorities need to be extraordinarily large—two-thirds majorities in the House and Senate to propose constitutional amendments—and must be sustained long enough to secure separate ratification by additional majorities in three-fourths of the states. The Founding Fathers saw the conundrum; Hamilton wrote that he trusted that:

> the friends of the Constitution [will never question] that fundamental principle of republican government, which admits the right of the people to alter or abolish the established Constitution, whenever they find it inconsistent with their happiness. [But] until the people have, by some solemn and authoritative act, annulled or changed the established form, it is binding.[28]

Had Hamilton lived long enough, he would also have explained that sustained majorities that continuously elect presidents with their overall constitutional point of view can count on those presidents appointing enough new justices to the Supreme Court to redefine the views of the Court on the constitutionality of some burning issues, and even sitting justices have been known to change their positions when very much out of sync with the policy positions of the electorate. The voters who oppose constitutional freedom of choice to have an abortion, oppose gay marriage, oppose due process in criminal trials that is highly protective of accused criminals, and who want schoolchildren to be required to recite the Pledge of Allegiance and participate in school prayers have not yet been numerous enough or present long enough to impose their definition of what is constitutionally permissible on the remainder of the population.

The Founding Fathers gladly sacrificed government that could provide speedy, effective, cohesive, and internally consistent policies. They opted for one that had a maximum number of veto points and checks and balances and

[28] *The Federalist Papers, No. 78* (Hamilton).

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protections against tyranny by particular officials or tyranny by selfish majorities. These veto points and checks and balances have also prevented radical changes in policy from administration to administration and have kept voters and public opinion from becoming polarized at opposite ends of the policy and ideological spectrum.

What in the Equilibrium Is Being Threatened?

The preceding discussion argues that the American democracy is certainly a democracy by virtue of the citizenry electing their rulers in free elections and the citizenry having some influence on policy, albeit indirectly and mostly retrospectively. It is also a constitutional democracy, in that there are limits to what the government has the right to do in restricting civil liberties or abridging constitutional due process guarantees in criminal trials. But, especially in the last decade, a number of these tenets protecting our constitutionally limited, elected democracy have become threatened.

The Perceived Legitimacy of Presidential Elections

The Electoral Vote System of Choosing. The perceived legitimacy of the formal means for choosing the president has eroded since the 2000 presidential election. Although it did not happen in the entire twentieth century, in the 2000 election, George W. Bush became the president despite having had 539,947 fewer popular votes than Albert Gore.[29] Then in the 2004 election, if 59,229 Ohio voters had voted for John Kerry rather than George W. Bush,[30] Kerry would have been elected president despite an approximately 3 million vote deficit recorded by the popular vote. If these close elections continue in the future, and especially if candidates winning only a minority of the voters are elected president due to the electoral vote system, the sense of democratic legitimacy surrounding the presidential electoral system will begin to dissipate. It has also, for example, allowed Russian President Vladimir Putin, when criticized about his regime not being sufficiently democratic, to point out that different nations have different democratic systems, and that in Russia, a candidate not having the most votes could not be elected president. Changing the electoral vote system would, however, require a constitutional amendment, something that senators from the least populous states would almost certainly block.

Winner-Take-All. The legitimacy of presidential elections is also being strained by the state-imposed rule, in all but two of the states, that the winner of the popular vote in a state receives all of the electoral votes allocated to that

[29] David Stout, "The 43rd President: The Final Tally," *New York Times*, 30 December 2000.

[30] Albert Salvato, "Ohio Recount Gives a Smaller Margin to Bush," *New York Times*, 29 December 2004.

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state regardless of the margin of victory. The winner-take-all system was from the beginning intended to be anti-democratic by disenfranchising party minorities in a state. It was originated in 1800 by Thomas Jefferson to ensure that all of the electoral votes from Virginia went to Jefferson and none to Adams, because Jefferson knew the electoral vote contest would be close. Once news of Jefferson's move reached Adams's home state of Massachusetts, the legislature there too instituted a winner-take-all rule so as to equally ensure that no electoral votes from Massachusetts would go to Jefferson. The winner-take-all system and polarization between the "red" and "blue" states now results in the de facto disenfranchisement of minority party–inclined voters in non-battleground states. Presidential candidates have directed their appeals to the interests of only a dozen or so battleground states that early polls predict may go in either direction, even though those states are not representative of the nation as a whole. Thus, the candidates ignore the rest of the country, both in the "ground war" and in the "air war." This is because it is of no consequence to a candidate if he/she wins the non-battleground states by 55 percent or 75 percent or loses by 10 percent or 25 percent. It would not require a constitutional amendment to eliminate the winner-take-all proviso and allot electoral votes proportionately to reflect the division of the popular vote. If this were done, the presidential candidates would have to campaign in almost all states and every voter would feel his vote counted.

The Buying of Presidential Elections. The absolutely colossal amount of spending for presidential nominating and general election campaigns gives a feeling of corruption to the entire process. In the 2003–2004 election cycle, George W. Bush raised $260.6 million for his presidential reelection campaign, and his opponent, John Kerry, raised a total of $233.4 million,[31] which clearly demonstrates the astronomical sums of money that come into play in U.S. elections at this point. Congress, in a bipartisan move after long study, did seriously limit spending by individuals and campaigns in 1971 with the Federal Election Campaign Act. But in 1976, in *Buckley v. Valeo*,[32] the Supreme Court ruled with a variety of opinions and rationales that a central part of that measure was unconstitutional. All the justices essentially equated the nonverbal spending of millions or hundreds of millions of dollars to a citizen's First Amendment rights to free speech and free association. When the Framers crafted the Bill of Rights, free speech consisted of actual speaking with a voice that had only lung power to reach an immediate audience; could they come back and speak, it is very doubtful that these realistic politicians would equate freedom of speech with the use of money to buy professionally crafted commercials that can reach hundreds of millions at a time. Indeed, without the spending limitations, the

[31] FEC Candidate Summary Reports, Presented by the Federal Elections Commission 2003–2004 Cycle, accessed at http://herndon1.sdrdc.com/cgi-bin/cancomsrs/?_04+P80000235 and http://herndon1.sdrdc.com/cgi-bin/cancomsrs/?_04+P800003335, 14 April 2005.

[32] *Buckley v. Valeo*, 424 U.S. 1 (1976).

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value of an average individual's free speech is actually diminished, because it will go nowhere unless the person is a celebrity or has millions of dollars with which to buy and run a television ad. Also, while having now a new Supreme Court membership that might uphold a limit on individual spending, we also have a president and Congress that were elected with even more massive spending than the politicians of the 1970s and, therefore, it is unlikely that they will think that the rules, which allowed for their successful election, should be changed.

Incomplete Media Coverage. A further threatening development in American presidential campaigns is the manner in which the current television, radio, and print media frequently provide incomplete, inaccurate, and differential coverage of facts and analyses to inform the voters in election campaigns. Voters rely on the media to provide them with the accurate information necessary to make informed judgments in elections. It is clear that voters receive a different set of facts on some major events and policy decisions depending on the source from which they get their political news. A report published by the Program on International Policy Attitudes (PIPA) in October 2004 shows the public's differential perception of the facts used to justify going to war in Iraq—a major issue in 2004:

> Views about the decision to go to war are highly correlated with beliefs about prewar Iraq. Among those who say that going to war was the right decision, 73% believe that Iraq had WMD (47%) or a major program for developing them (26%), and 75% believe that Iraq was providing substantial support to al Qaeda. Among those who say it was the wrong decision, only 29% believe that Iraq had WMD (10%) or a major program for developing them (19%), and 33% believe that Iraq was providing substantial support to al Qaeda.[33]

This report links a person's choice to support a policy decision to their understanding or misunderstanding of the facts. In a previous analysis, PIPA discovered a widespread correlation between a person's misperceptions and their chosen media outlet. FOX viewers held the highest percentage of misperceptions, while PBS/NPR viewer/listeners maintained the fewest misperceptions regarding issues such as the presence of weapons of mass destruction in Iraq and a link between Saddam Hussein and al Qaeda.[34] A voter's misperceptions, strongly connected to their media provider, affect the policy decisions they are willing to support, such as the war in Iraq, and thus their willingness to vote or not vote for the candidate responsible for those policy decisions. If a presidential administration chooses to manipulate public opinion and if the media out-

[33] Excerpted from a report distributed by PIPA (Program on International Policy Attitudes), School of Public Affairs, University of Maryland, entitled "What's New: Three in Four Say If Iraq Did Not Have WMD or Support al Qaeda, US Should Not Have Gone to War," 28 October 2004.

[34] See Steven Kull, Clay Ramsay, and Evan Lewis, "Misperceptions, the Media, and the Iraq War," *Political Science Quarterly* 118 (Winter 2003–2004): 569–598.

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lets serve as cheerleaders for a particular agenda or administration rather than as critical filters and analysts, the efficacy and legitimacy of elections come into doubt. American democracy relies on the transparency and integrity of elected government officials and critical media concerned with informing the public, especially in presenting facts and analyses about complex events that the voters cannot see or access directly for themselves. Without these two factors in place, elections cannot serve their original purpose of holding rulers accountable by knowledgably rewarding or punishing for successes or failures in broad policy areas.

Congressional Abdication of War Powers

Congressional majorities have shown themselves to be largely indifferent to their constitutional prerogatives in war making, most egregiously when they granted President George W. Bush the discretionary authority to initiate and conduct the 2003 war in Iraq. But Congress also implicitly acquiesced to the trespassing on their authority when President Bill Clinton used military force during the conflicts in Bosnia and Kosovo.

In *The Federalist, No. 51*, Madison states that he expected "the private interest of every individual may be a sentinel over the public rights,"[35] and thus the interest of each member of Congress would protect the citizens of the nation from any rush to war or improper executive use of power. The Framers presumed that Congress's desire for sharing power or their ambition to protect their constitutional duties by having the final say in major decisions involving the life and death of American military forces would cause Congress to prevent the executive branch from usurping their prerogatives.

The case made to Congress by the Bush administration for a resolution authorizing the use of force in Iraq has now been shown to have been based on an incorrect or misleading reading of intelligence reports that Iraq had weapons of mass destruction that could be given to terrorists to be used against the United States, that Saddam Hussein was connected with the September 11 attack on the United States, and that the Iraqis so hated their government that they would immediately welcome American forces as liberators. Majorities in both the House and Senate transferred to the president the power to decide both whether and when the United States would go to war in Iraq through a broadly worded joint resolution that authorized him "to use the U.S. military as he deems necessary and appropriate to defend U.S. national security against Iraq and enforce U.N. Security Council resolutions regarding Iraq."[36] Not only did Congress abdicate its constitutional duties in the Iraq Resolution, but it did so in haste, without sufficient debate and deliberation, and against strong arguments to refrain because the case against Iraq had not been proven. The haste

[35] *The Federalist Papers, No. 51* (Madison).

[36] House Joint Resolution 114, Use of Force, 11 October 2002.

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was the result of the President arguing that the danger from Saddam Hussein was increasing daily and of even the Democratic congressional leadership wanting to get the Iraq vote "out of the way" before the 2002 midterm elections, because they thought they would profit by having economic issues as the central agenda. It would have been inconceivable to our Framers that congressional leaders would have abdicated their constitutional powers to decide on war. The Founders were all ambitious politicians, jealously guarding their constitutional prerogatives, and they expected their successors to be likewise.

Not all members of Congress were willing to roll over. Senator Robert C. Byrd of West Virginia, the Senate's constitutional expert, challenged both the wisdom and constitutionality of the resolution. In an op-ed piece for *The New York Times*, Senator Byrd declared:

> We may not always be able to avoid war, particularly if it is thrust upon us, but Congress must not attempt to give away the authority to determine when war is to be declared. We must not allow any president to unleash the dogs of war at his own discretion and for an unlimited period of time.[37]

Nevertheless, majorities in Congress, including Democratic ones in the Senate, did not heed the warnings. Both Senator John Kerry and Senator John Edwards—the Democratic ticket in 2004—voted for the resolution and later turned against the war, claiming that that they were not given accurate information and intelligence reports. But other prominent Democratic Senators Edward Kennedy, Patrick Leahy, Paul Wellstone, Carl Levin, Barbara Boxer, Bob Graham, the Republican, Lincoln Chafee, and the sole Independent in the Senate, James Jeffords, felt they had enough information to justify their responsibly voting "no."

By launching a war without really convincing majorities in Congress of the case's merits, the President violated at least the spirit of the Constitution. But he also lost the opportunity to engage in an intellectual give-and-take with officials who were separately elected and therefore not beholden to him, from whom he could gain fresh perspectives to balance those generated and debated by his subordinates in the secret recesses of the Office of the Secretary of Defense, The National Security Council, the CIA, and the State Department. It was this failure of past presidents to consult more broadly and to rely instead on executive branch groupthink that played a large part in the 1961 Bay of Pigs fiasco and in the disastrous decisions, starting in 1964, to expand the war in Vietnam.[38] It appears that it was this kind of groupthink that prevented intelligence officers who had a different take on the danger of Iraq from getting their views to the top decision makers in the executive branch and in Congress.[39]

[37] Robert C. Byrd, "Congress Must Resist the Rush to War," *New York Times*, 10 October 2002.

[38] Irving Janis, *Groupthink: Psychological Studies of Policy Decisions and Fiascoes* (Boston: Houghton Mifflin, 1983).

[39] National Commission on Terrorist Attacks upon the United States, *The 9/11 Commission Report: The Final Report of the National Commission on Terrorist Attacks upon the United States* (New York: Norton, 2004).

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If the manner in which the United States went to war against Iraq in 2003 becomes accepted as a legitimate precedent, we run this risk: Any president, in what may be a perpetual "war on terrorism," can find misleading and allegedly very confidential intelligence with which to scare Congress into giving him authority to use the military (or even worse, do so on his own, with the claim that it is within his inherent power as commander in chief) to forestall attacks from some alleged terrorist group or rogue nation.[40] Because the United States has an all-volunteer military force, there will be no objections from people concerned about themselves or their children being drafted to serve in the war. Also, funding a war entirely by issuance of debt, instead of by raising taxes to produce the necessary revenues, results in the broad general public not feeling any kind of monetary pinch. The Framers would probably have called this kind of institutional process for waging war an "elective despotism."

Threats to Due Process Guarantees

Another weakening of our traditional constitutional democracy is the direct outcome of some of the broad power given to the executive branch after the September 11 terrorist attacks through the USA Patriot Act and a general deferring to the president, the military, FBI, CIA, and attorney general during wartime. The ability of the government to monitor phone and email communications of anyone at any time and to incarcerate even American citizens on American soil by designating them as enemy combatants is a shift from what has in the past been acceptable in American constitutional democracy. Clearly some of this authority is necessary in order to detect terrorists in the United States, thwart their plans to launch other terrorist attacks, and incapacitate those who might engage in terrorist actions. But holding American citizens indefinitely, without having filed charges against them, without their being given access to a lawyer, and without their being able to apply for a writ of habeas corpus is a major departure from the protections of the Bill of Rights.

In the first case on this issue to come before the Supreme Court, *Hamdi v. Rumsfeld*,[41] the Supreme Court ruled on 28 June 2004 that detainees (in this case the actual detainee was an American citizen being held in a military installation within the United States after being picked up on the battlefield in Afghanistan in the war against the Taliban) had to at least be given the right to challenge the facts on the basis of which they were designated enemy combat-

[40] When in the House of Representatives Abraham Lincoln argued during "preventive" war with Mexico: "Allow the President to invade a neighboring nation whenever he shall deem it necessary to repel an invasion . . . and you allow him to make war at pleasure. . . . If today he should choose to say he thinks it necessary to invade Canada to prevent the British from invading us, how could you stop him? You may say to him, 'I see no probability of the British invading us'; but he will say to you, 'Be silent: I see it, if you don't.'" Arthur Schlesinger, Jr., "Eyeless in Iraq," *New York Review of Books*, 23 October 2003, 24.

[41] *Hamdi v. Rumsfeld*, 124 S. Ct. 2633 (2004).

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ants before an impartial hearing officer.[42] During that hearing, the detainees would not be entitled to all the regular due process guarantees for criminal trials. What turned out to be the majority opinion had the support of only four justices: Chief Justice William H. Rehnquist, Justice Sandra Day O'Connor, Justice Anthony M. Kennedy, and Justice Stephen G. Breyer; in that opinion, written by Justice O'Connor, she spoke in broad protective language about rights for detainees:

> It would turn our system of checks and balances on its head to suggest that a citizen could not make his way to court with a challenge to the factual basis for his detention by his government, simply because the Executive opposes making available such a challenge. . . .
>
> We have long since made clear that a state of war is not a blank check for the president when it comes to the rights of the nation's citizens.

But Justice O'Connor further observed that:

> We do not question that our due process assessment must pay keen attention to the particular burdens faced by the Executive in the context of military action.[43]

The detainee in question, Yaser Hamdi, had already been detained for more than two years before the case was decided.[44]

Justice David Hackett Souter and Justice Ruth Bader Ginsburg joined in the majority judgment in order to have six votes for a ruling that Hamdi had to be given a hearing, but dissented in part with the majority opinion because it did not stipulate additional protections they thought were owed to the detainees.[45]

Justice Antonin Scalia and Justice John Paul Stevens dissented because they believed the government either needed to charge an American citizen with a crime and prosecute him or needed to release him. Justice Scalia warned:

> Many think it not only inevitable but entirely proper that liberty give way to security in times of national crisis—that, at the extremes of military exigency, *inter arma silent leges*. Whatever the general merits of the view that war silences law or modulates its voice, that view has no place in the interpretation and application of a Constitution designed precisely to confront war and, in a manner that accords with democratic principles, to accommodate it. Because the Court has proceeded to

[42] The issue of non-citizens incarcerated at Guantanamo Bay was not raised in this case.

[43] *Hamdi v. Rumsfeld*, 124 S. Ct. 2633, 2650, (2004).

[44] Yaser Hamdi was finally released from U.S. custody in October of 2004 after nearly three years of detention. He was never charged with a crime.

[45] *Hamdi v. Rumsfeld*, 124 S. Ct. 2633, 2660, (2004). Justices Souter and Ginsburg wrote in their own separate opinion that "Since this disposition does not command a majority of the Court, however, the need to give practical effect to the conclusions of eight members of the Court rejecting the Government's position calls for me to join with the plurality in ordering remand on terms closest to those I would impose."

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meet the current emergency in a manner the Constitution does not envision, I respectfully dissent.[46]

Only a single justice, Clarence Thomas, dissented from the judgment and all the other opinions, arguing that the president, under his constitutional powers as commander in chief, has the right to designate any citizen as an enemy combatant and detain him without hearings or habeas corpus.

If another massive terrorist attack should come again from within the United States and perhaps involve chemical or biological weapons, it will be very difficult to prevent the wholesale detention of persons who have the same ethnic and religious affiliations as those associated with the September 11 terrorists.

Intrusion into Personal Behavior and Religious Beliefs

The attempt to use government to interfere with what has been seen as behavior within a citizen's right of privacy and to impose the religious beliefs of a minority of the electorate who are fundamentalist Protestants and conservative Catholics is an extremely disturbing evolution in American politics. This minority wishes to impose their stance on issues of private behavior and scientific research, such as birth control, when life begins, stem cell research, decriminalizing homosexuality, gay marriage/civil unions, the right to die, comprehensive sex education, the distribution of condoms to countries severely afflicted with AIDS, and the teaching of evolution versus Genesis[47] in public schools.

Many, primarily Republican, politicians placate this vocal minority of Protestant Evangelicals and conservative Roman Catholics because they consider the first a bedrock of their support and the second a way to garner the votes of a group that has traditionally voted Democratic.[48] This minority has also successfully demonized an ineptly led Democratic Party into being seen as a party for limitless abortion, gay marriage, the harvesting of stem cells from live fetuses, and other extreme positions that most Democrats do not, in fact, agree with, including the most recent Democratic president, Bill Clinton, and the Democratic nominees for president in 2000 and 2004, Al Gore and John Kerry.

A great many of the early American settlers emigrated from their various homelands in Europe in order to escape the frequent religious wars and killings between Catholics and Protestants, and even among different Protestant churches, and the persecution in trials for heresy or treason of those who did not share the beliefs of their religious and governmental leaders. The Founding

[46] *Hamdi v. Rumsfeld*, 124 S. Ct. 2633, 2674, (2004).

[47] President Bush still claims that the "jury is still out" on evolution. See Paul Krugman, "An Academic Question," *New York Times*, 5 April 2005.

[48] In the 2004 election, 52 percent of Catholics voted for President Bush and 47 percent voted for Senator Kerry. See James E. Campbell, "Why Bush Won the Presidential Election of 2004: Incumbency, Ideology, Terrorism, and Turnout," *Political Science Quarterly* 120 (Summer 2005): 219–241.

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Fathers desired to create a government and society in which a person's religious beliefs would not affect politics or their standing in the political system. That is why they inserted into the Constitution the provision that "No religious Test shall ever be required as a Qualification to any Office or public Trust under the United States"[49] and a bar from making any "law respecting an establishment of religion or prohibiting the free exercise thereof."[50]

While the United States opposes theocracy abroad in Iraq and seeks the overthrow of the Mullahs in Iran, the Republican Party has embraced the ideology of the religious right to a frightening extent at home. In an op-ed for *The New York Times*, former Republican senator and ordained Episcopal priest John Danforth criticized the Republican Party as "a party that has gone so far in adopting a sectarian agenda that it has become the political extension of a religious movement."[51] The congressional role in the Terri Schiavo case further demonstrates the extremes to which pleasing the religious right can drive the congressional leadership and even President Bush. In a congressional session called at night, Congress passed legislation to give jurisdiction to the federal courts of a case that had gone through the entire Florida court system and had been denied certiorari by the Supreme Court, and which allowed the withdrawal of a feeding tube from a forty-one-year-old woman who had been declared by her doctors to be in a persistent vegetative state for the previous seventeen years. In another extreme move, President Bush interrupted his Texas vacation (where he could have signed the legislation anyway) and flew to Washington to sign it in a media moment. The Federal District Court in Florida refused to consider the case anew, as did the Federal Court of Appeals by a 10–2 decision. Only one judge, Judge Stanley F. Birch, Jr., in the appeals court, was brave enough to issue an opinion that stated how wrong this procedure had been. He wrote that the legislation was:

> Demonstrably at odds with our Founding Fathers' blueprint for the governance of a free people. . . . Legislative dictation of how a federal court should exercise its judicial functions invades the province of the judiciary and violates the separation of powers principle.[52]

These warnings were from a self-proclaimed conservative judge who had been appointed by former President George H. W. Bush.

It has come to a point where Democrats are chastised for not discussing their faith more openly and frequently with the public and attacked for purportedly opposing some conservative nominees for the federal courts because they are "against people of faith."[53] What we should abide by is the American tradi-

[49] U.S. Const. art. VI.

[50] U.S. Const. amend. I.

[51] John C. Danforth, "In the Name of Politics," *New York Times*, 30 March 2005.

[52] Abby Goodnough and William Yardley, "Federal Judge Condemns Intervention in Schiavo Case," *The New York Times*, 31 March 2005.

[53] David D. Kirkpatrick, "Frist Set to Use Religious Stage on Judicial Issue," *The New York Times*, 15 April 2005.

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tion as it was expressed by John F. Kennedy in the presidential campaign of 1960 that would make him the first Catholic elected to the presidency:

> I believe in an America that is officially neither Catholic, Protestant nor Jewish, where no public official either requests or accepts instructions on public policy from the Pope, the National Council of Churches or any other ecclesiastical source—*where no religious body seeks to impose its will directly or indirectly upon the general populace or the public acts of its officials*, and where religious liberty is so indivisible that an act against one church is treated as an act against all. . . .
>
> I do not speak for my church on public matters and the church does not speak for me. Whatever issue may come before me as President, if I should be elected—on birth control, divorce, censorship, gambling, or any other subject—I will make my decision in accordance with these views, in accordance with what my conscience tells me to be in the national interest, and without regard to outside religious pressure or dictate. And no power or threat of punishment could cause me to decide otherwise. . . .
>
> Neither do I look with favor upon those who would work to subvert Article VI of the Constitution by requiring a religious test—even by indirection—for it. *If they disagree with that safeguard they should be out openly working to repeal it.*[54]

If the Catholic clergy had been threatening in 1960 to refuse communion to those Catholic officeholders who voted against the Church's preaching on a range of issues, Kennedy would never have been elected, because too many would have doubted that he could put Catholic doctrine aside when making presidential decisions. As it was, he won by only 110,000 votes, because many fundamentalist Protestants were still afraid that, if elected, Kennedy would do the Pope's bidding.[55]

Polarization and the Tyranny of the Majority

Politics in Washington has taken on a particularly nasty air in recent years. There has been a departure from the political parties of the past, which contained significant overlap in policy positions. Civility between elected officials on opposing sides of the aisle has diminished as politicians have come to see their fellow elected officials of the opposing party almost as enemies to be destroyed rather than colleagues to be won over and, if not, then just as opponents to be defeated. And it must be said that the personalities of Bill Clinton and George W. Bush have had an unparalleled capacity to generate strong animosity from party activists and even voters who had opposed their candidacies.

The years since 2002 have resulted in significant changes in the manner in which Congress operates in the House of Representatives, with the majority monopolizing power traditionally shared with the minority party. In the House, legislation traditionally emerged from committee and carried a rule from the

[54] At www.jfklibrary.org/j091260.htm.

[55] White, *The Making of the President*.

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Rules Committee to permit a certain amount of time for debate to be shared between the parties and provided for the offering of amendments from the floor. This process, by which both parties were permitted input into legislation, has been altered. The Republican majority in the House during the 108th and 109th Congresses has not allowed the Democrats in the minority the opportunity to offer debate or amendments to important Republican-crafted legislation that the majority leadership decides it does not want to be changed in any way. The House Democrats are reduced to simply registering a "no" vote to Republican legislation on final passage. This tyranny of the majority in the House has led to the disempowerment of the minority House members, who represent approximately 47 percent of the seats in the House.

The Republican majority leadership in the House has gone even to the extreme of stating that they will not bring up for debate legislation that has not been approved by the majority of their party's representatives. The result is that a small section of the Republican party can block any legislation they don't like unless amended to their point of view. In late November of 2004, the Bush administration and both parties in the Senate were supporting the new Intelligence Bill recommended by the 9/11 Commission to create an overall Director of National Intelligence, and it passed the Senate by a bipartisan vote of 96 to 2. After the elections, the bill came to the House, where it faced opposition by some conservative Republicans who argued the bill would take away too much control over intelligence from the Defense Department. There were clearly enough votes from the Democrats and a minority of Republicans to pass the bill on the House floor, but Speaker Dennis Hastert refused to allow it to come up. As his spokesman put it, "Mr. Hastert did not want to split his caucus, and did not want the bill to pass with less than a majority of the majority. What good is it to pass something where most of our members don't like it?"[56] After a month of negotiations and the direct involvement of President Bush and Vice President Dick Cheney, several provisions were added, mostly to ensure that the power of the Secretary of Defense over the defense budget for intelligence was still completely intact.[57] But the logic of Speaker Hastert can be seen as instituting a "tyranny of the majority of a majority," which really means a tyranny of a minority of the entire House, which the Framers certainly would have found even more disturbing than the "tyranny of the majority" to which they were so strongly opposed.

Historically, the Senate has been known for its sense of comity, bolstered by its tradition of allowing every senator the opportunity to speak without limit in support of or in opposition to a presidential nomination or a piece of legislation. Even as this is being written (in June of 2005), there is a threat by the

[56] Sheryl Gay Stolberg, "Republican Defiance on Intelligence Bill Is Surprising. Or Is It?" *New York Times*, 22 November 2004.

[57] Philip Shenon, "Senate Approves Intelligence Bill and Sends It to President," *The New York Times*, 9 December 2004; and Philip Shenon, "House Approves Broad Overhaul of Intelligence," *New York Times*, 8 December 2004.

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Senate majority leader to use an unprecedented parliamentary maneuver to prevent use of the filibuster to block certain judicial nominees whom the Democrats deem unacceptable by a simple majority of fifty votes plus the Vice President's tie-breaking vote as presiding officer of the Senate. A filibuster means that, under the current rules of the Senate, a minority can try to block a nomination or a piece of legislation by extended debate unless there is a minimum of sixty Senators prepared to vote for cloture and end the debate.[58]

A formal or de facto rules change that would allow cloture by simple majority vote, especially on presidential nominations, where the Senate has a constitutional obligation to give advice and to give or withhold consent, would very likely be extended to apply to all voting in the Senate and make that body susceptible to a tyranny of a simple majority. In addition, because of every state having two senators regardless of population, the majority of Republican senators that might change the Senate rules in fact represent fewer people—144,765,157 to 148,026,027—than the population represented by the Democrats plus the Independent Jeffords.[59]

During the Clinton administration, Republicans blocked many of President Clinton's judicial nominees,[60] but because the Republicans were in the majority in the Senate, they did not need to filibuster. The majority in the Judiciary Committee simply refused to report the nominations out. The filibuster has been present in the Senate since 1806, and enlightened self interest should dictate keeping it in place as a seldom-used "gun behind the door" so that when the Republicans again become a minority, the Democratic leadership will not be able to ram through certain contentious and extreme judicial nominees or pieces of legislation.

Elections Are Not Enough

Elections are not enough for sustaining American-style democracy because elections are episodic, and therefore between elections, a president has four

[58] Formally changing the rules to allow cloture by a simple majority vote would be subject to the existing cloture provisions as it was when the rules were changed to reduce the majority needed for cloture from two-thirds to three-fifths of the Senate, but it did not appear that the Majority Leader had sixty votes available to change the rules to eliminate the filibuster. The Majority Leader's maneuver would actually go around the rules by moving to close debate without a cloture motion but by a simple motion to close debate, having the Vice President rule that such a motion was in order, having the Minority Leader object or raise a point of order, and then having the Majority Leader move to table the objection or point of order, which is a non-debatable killing-motion that can be imposed by a simple majority.

[59] The numbers were reached through data obtained from United States Census Bureau population estimates as of 4 July 2004. To determine how much of the country was represented by Democratic senators versus Republican senators, for Republicans, the population of the state was multiplied by the number of Republican senators from that state and then each number was added together. The same was done for the Democrats. The numbers at that point added up to twice the population of the United States, so the totals for Democrats and Republicans were both divided by two.

[60] In his second term, Clinton nominated fifty-one candidates for the Court of Appeals, and thirty-five were confirmed. In his first term, Bush nominated fifty-two judges, and thirty-five were confirmed.

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years and senators six years to make and implement policy before they are called to account in an election. As for House members—who Hamilton argued would be especially responsive to the public because they faced election every two years—they are almost all in gerrymandered or redistricted areas that are purposely made safe for the incumbent, and thus reelection is not a practical problem. In 2004, only seven incumbents were defeated, in contrast to the 394 who were reelected. In addition, four of the incumbent defeats were the result of the gerrymandering in Texas at Republican House Majority Leader Tom Delay's direction—the Republican state legislature redrawing of the district lines for a second time after the 2002 census in order to almost ensure the defeat of Democratic congressmen.[61] In the Senate, only a single incumbent, Tom Daschle of South Dakota, the Democratic leader, was defeated. The rest of the changes in the party ratio of the Senate were the result of Republicans winning more open seats than the Democrats.

To use the "shoes pinching" analogy once again, in the course of four years, the feet being forced to wear crooked shoes might become gangrenous and a later change in shoemakers would not be able to restore the foot that might have had to be amputated. Certainly in the twenty-first century, in an age of the spread of weapons of mass destruction and of terrorist attacks, the Internet, global economics, and massive air travel, a great deal of damage—even a great deal of irreversible damage—can be done between elections.[62] The good will generated for Americans throughout the world after September 11 was destroyed by the decision to go ahead with the Iraq war despite almost worldwide opposition to it. Even in domestic policy, the elimination of massive budget deficits that had taken the hard work and courage of three presidents and majorities in twelve congresses to achieve was undone in four years, to produce the largest budget deficits in American history (see Figure 1).[63]

If a president has the support of his own party majorities in both houses of Congress, and if a filibuster can successfully be limited by majority vote, or if the majority party contingent itself reaches sixty, the minority will become impotent in blocking appointments or amending legislation. Then the American democracy will be headed down a dangerous path toward precisely the kind of

Jeffrey Toobin, "Blowing Up the Senate: Will Bush's Judicial Nominees Win with the 'Nuclear Option'?" *The New Yorker*, 7 March 2005.

[61] See Gary Jacobson, "Polarized Politics and the 2004 Congressional Elections," *Political Science Quarterly* 120 (Summer 2005): 199–218.

[62] Lyndon B. Johnson felt he could not run for president again in 1968, despite his landslide victory in 1964, because of dissatisfaction with his conduct in escalating the Vietnam War and bringing about huge casualties. But that did not bring back the 35,751 lives lost between 1964 and 1968 or ease the civil discord that had spread across the nation and would exist for decades. See numbers of casualties at www.archives.gov/research_room/research_topics/vietnam_war_casualty_lists/statistics.htm.

[63] Presidents Reagan, George H. W. Bush, and Clinton all were forced to raise taxes to create a balanced budget, and finally, by 1998, the government produced a small surplus. See The Budget for Fiscal Year 2005, Historical Tables, Office of Management and Budget, Executive Office of the President of the United States.

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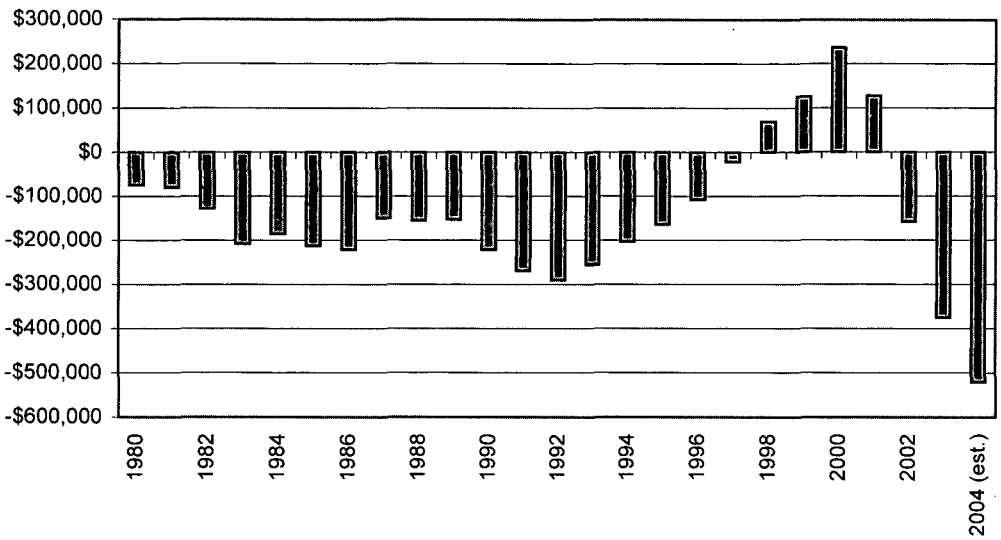
FIGURE 1
Federal Surpluses and Deficits in Current Dollars (in millions)



Source: The Budget for Fiscal Year 2005, Historical Tables, Office of Management and Budget, Executive Office of the President of the United States.

government that will bring about extremism and abuse of power, becoming, to paraphrase Jefferson, a de facto elective despotism.

The spirit of civility and cooperation must be restored so that not just the party in the White House and bare majorities of the two chambers of Congress can create or change policy. First, the 49 percent of the population that did not vote to reelect President Bush, the population represented by the Democrats who hold 47 percent of the seats in the House of Representatives, the 50.5 percent of the population represented by Democratic senators, are still Americans who pay their taxes, do their work, serve in the military, and are therefore entitled to be represented in the House and the Senate. One way is for the majority leaderships to give the minority some opportunities to have the minority's legitimate points incorporated, or at least voted upon, before the final product. Second, engaging the minority in legislation will also give them some spirit of ownership of a policy and will therefore preclude their criticizing it if it goes poorly or repealing it once they become the majority.

Third, it must be conceded by the majority that it is the Constitution, and not some fringe group, that gives to the Senate the responsibility to advise and consent, or not consent, to presidential nominations for positions in the executive branch, as well as for all of the federal judges in the district courts, the courts of appeal in each circuit, and finally the Supreme Court. All federal judges, of course, have lifetime tenure and will therefore serve for decades beyond the elections that brought into power the president who nominated them

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and claimed some mandate for appointing judges like them.[64] Recognizing the absolute legitimacy of Senate involvement in the appointing process means that Senate opposition to a relatively few appointees should be reacted to by giving the reasons why the objections are invalid and not by trying to de-legitimize the objections by calling them "just politics." The Constitution simply gives a share of the appointment power to the Senate as well as to the president, and there is absolutely nothing in Madison's diary of the constitutional convention or in *The Federalist Papers* even to suggest that the Senate should just be a rubber stamp. As Hamilton explained:

> It will be the office of the president to *nominate*, and with the advice and consent of the senate to *appoint*. There will of course be no exertion of *choice* on the part of the senate. They may defeat one choice of the executive and oblige him to make another; but they cannot themselves *choose*—they can only ratify or reject the choice, he may have made.[65]

If a single oppressive majority dominates all the levers of power, including by new appointments over a few years of the majority of the members of the Supreme Court, we will have turned our government into an elective despotism, and, as Jefferson wrote, the fact that it will be elective brings no solace.

If a democracy is to remain real and stable, the majority must be humane and farsighted enough to take care of minorities who have serious objections to the majority's point of view and who, because of lack of numbers, do not have the political strength to impose their own policy solutions through their own political power. Or, as one of the most brilliant students ever of American politics, V. O. Key, once put it:

> Triumphant parties that advocate great causes or that come into power at moments of great stress must contrive and enact measures that may be thought, even widely, to be destructive of the principles of the Republic. Yet unless gradual acceptance of such innovation comes about, the cleavage between the parties would grow into a chasm unbridgeable by the compromises of party politics. Or alternations in party control, with the accompanying changes of policy, would jolt the social and economic system beyond the bounds of toleration.[66]

In his 1858 campaign for the Senate, Lincoln argued that "a house divided against itself cannot stand." Lincoln's postulate is especially relevant again today. At the moment, the United States is in a perpetual war against invisible terrorists, many nations are out-competing the United States in economics, trade, and technological progress, the dollar is weakening relative to many major currencies, the United States is suffering unprecedented budget and trade

[64] See Robert A. Dahl, "The Myth of the Presidential Mandate," *Political Science Quarterly* 105 (Autumn 1990): 355–372.

[65] *The Federalist Papers, No. 66* (Hamilton).

[66] V. O. Key, Jr., *Politics, Parties, and Pressure Groups*, 5th ed. (New York: Thomas Crowell and Co., 1964), 223.

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deficits, and the myth of American military omnipotence has been shattered. Is it in the national interest or even realistically viable that a slim majority—and a very small one in the President's popular vote, in seats in the House of Representatives and an actual minority in population represented by the Republicans in the Senate—should just write off minority input and objections?[67]*

Appendix

Address of Senator John F. Kennedy to the Greater Houston Ministerial Association
Rice Hotel, Houston, Texas
September 12, 1960

Reverend Meza, Reverend Reck, I'm grateful for your generous invitation to speak my views.

While the so-called religious issue is necessarily and properly the chief topic here tonight, I want to emphasize from the outset that we have far more critical issues to face in the 1960 election; the spread of Communist influence, until it now festers 90 miles off the coast of Florida—the humiliating treatment of our President and Vice President by those who no longer respect our power—the hungry children I saw in West Virginia, the old people who cannot pay their doctor bills, the families forced to give up their farms—an America with too many slums, with too few schools, and too late to the moon and outer space.

These are the real issues which should decide this campaign. And they are not religious issues—for war and hunger and ignorance and despair know no religious barriers.

But because I am a Catholic, and no Catholic has ever been elected President, the real issues in this campaign have been obscured—perhaps deliberately, in some quarters less responsible than this. So it is apparently necessary for me to state once again—not what kind of church I believe in, for that should be important only to me—but what kind of America I believe in.

I believe in an America where the separation of church and state is absolute—where no Catholic prelate would tell the President (should he be Catholic) how to act, and no Protestant minister would tell his parishoners for whom to vote—where no church or church school is granted any public funds or political preference—and where no man is denied public office merely because his religion differs from the President who might appoint him or the people who might elect him.

I believe in an America that is officially neither Catholic, Protestant nor Jewish—where no public official either requests or accepts instructions on public policy from the Pope, the National Council of Churches or any other ecclesiastical source—where no religious body seeks to impose its will directly or indirectly upon the general populace or the public acts of its officials—and where religious liberty is so indivisible that an act against one church is treated as an act against all.

For while this year it may be a Catholic against whom the finger of suspicion is pointed, in other years it has been, and may someday be again, a Jew—or a Quaker—or a Unitarian—or a Baptist. It was Virginia's harassment of Baptist preachers, for example, that helped lead to Jeffer-

[67] At www.historyplace.com/Lincoln/divided.htm.

*I thank Kathleen Doherty for her excellent research assistance on all aspects of this essay. I also thank Vilma Caraley, James Campbell, Robert Jervis, Walter LaFeber, Andrew Nathan, Ralph Nunez, and Robert Shapiro for reading and making helpful comments on an earlier draft of this essay, although I was not able to incorporate all of their suggestions.

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son's statute of religious freedom. Today I may be the victim—but tomorrow it may be you—until the whole fabric of our harmonious society is ripped at a time of great national peril.

Finally, I believe in an America where religious intolerance will someday end—where all men and all churches are treated as equal—where every man has the same right to attend or not attend the church of his choice—where there is no Catholic vote, no anti-Catholic vote, no bloc voting of any kind—and where Catholics, Protestants and Jews, at both the lay and pastoral level, will refrain from those attitudes of disdain and division which have so often marred their works in the past, and promote instead the American ideal of brotherhood.

That is the kind of America in which I believe. And it represents the kind of Presidency in which I believe—a great office that must neither be humbled by making it the instrument of any one religious group nor tarnished by arbitrarily withholding its occupancy from the members of any one religious group. I believe in a President whose religious views are his own private affair, neither imposed by him upon the nation or imposed by the nation upon him as a condition to holding that office.

I would not look with favor upon a President working to subvert the first amendment's guarantees of religious liberty. Nor would our system of checks and balances permit him to do so—and neither do I look with favor upon those who would work to subvert Article VI of the Constitution by requiring a religious test—even by indirection—for it. If they disagree with that safeguard they should be out openly working to repeal it.

I want a Chief Executive whose public acts are responsible to all groups and obligated to none—who can attend any ceremony, service or dinner his office may appropriately require of him—and whose fulfillment of his Presidential oath is not limited or conditioned by any religious oath, ritual or obligation.

This is the kind of America I believe in—and this is the kind I fought for in the South Pacific, and the kind my brother died for in Europe. No one suggested then that we may have a "divided loyalty," that we did "not believe in liberty," or that we belonged to a disloyal group that threatened the "freedoms for which our forefathers died."

And in fact this is the kind of America for which our forefathers died—when they fled here to escape religious test oaths that denied office to members of less favored churches—when they fought for the Constitution, the Bill of Rights, and the Virginia Statute of Religious Freedom—and when they fought at the shrine I visited today, the Alamo. For side by side with Bowie and Crockett died McCafferty and Bailey and Carey—but no one knows whether they were Catholic or not. For there was no religious test at the Alamo. . . .

But let me stress again that these are my views—for contrary to common newspaper usage, I am not the Catholic candidate for President. I am the Democratic Party's candidate for President who happens also to be a Catholic. I do not speak for my church on public matters—and the church does not speak for me.

Whatever issue may come before me as President—on birth control, divorce, censorship, gambling or any other subject—I will make my decision in accordance with these views, in accordance with what my conscience tells me to be the national interest, and without regard to outside religious pressures or dictates. And no power or threat of punishment could cause me to decide otherwise.

But if the time should ever come—and I do not concede any conflict to be even remotely possible—when my office would require me to either violate my conscience or violate the national interest, then I would resign the office; and I hope any conscientious public servant would do the same.

But I do not intend to apologize for these views to my critics of either Catholic or Protestant faith—nor do I intend to disavow either my views or my church in order to win this election.

If I should lose on the real issues, I shall return to my seat in the Senate, satisfied that I had tried my best and was fairly judged. But if this election is decided on the basis that 40 million Americans lost their chance of being President on the day they were baptized, then it is the whole

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nation that will be the loser, in the eyes of Catholics and non-Catholics around the world, in the eyes of history, and in the eyes of our own people.

But if, on the other hand, I should win the election, then I shall devote every effort of mind and spirit to fulfilling the oath of the Presidency—practically identical, I might add, to the oath I have taken for 14 years in the Congress. For without reservation, I can "solemnly swear that I will faithfully execute the office of President of the United States, and will to the best of my ability preserve, protect, and defend the Constitution . . . so help me God.

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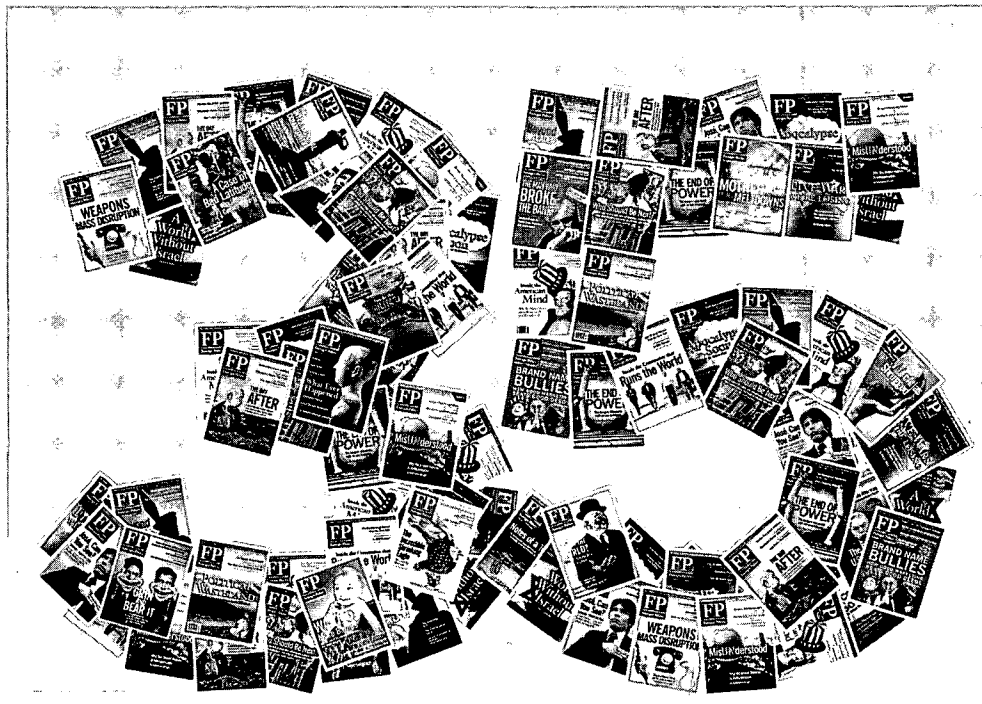

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China's Porous Protectionism: The Changing Political Economy of Trade Policy

SCOTT KENNEDY

As China becomes more integrated into international economic institutions and markets, there is a growing awareness of the importance of external factors in shaping the regulatory structure, laws, and policies governing its economy. Moreover, there is a consensus among observers that greater integration into the world trading and investment systems can be equated with further economic liberalization and that any lack of openness is due to entrenched domestic factors.[1] China's entry into the World Trade Organization (WTO) is thus seen as pivotal in furthering this transformation.[2] Although such a close link between economic openness and participation in international economic institutions is largely accurate, the gap between how these organizations actually operate and a *fully* liberal economic order are increasingly important in explaining some protectionist elements of China's evolving trade regime. Conversely, economic integration has led to growing diversification of interests within China and to the emergence of nonstate advocates of openness, tempering efforts at protection. The role of liberal business interests in China suggests a growing need to understand their place in trade policy, even in authoritarian regimes.

[1] For summaries of the debate over China's foreign economic policy, see Thomas G. Moore, *China in the World Market: Chinese Industry and the International Sources of Reform in the Post-Mao Era* (Cambridge: Cambridge University Press, 2002), 34–58; David Zweig, *Internationalizing China: Domestic Interests and Global Linkages* (Ithaca, NY: Cornell University Press, 2002), 1–22.

[2] Prominent contributions on China's WTO entry that stress the WTO's transforming role are Nicholas R. Lardy, *Integrating China into the Global Economy* (Washington DC: Brookings Institution Press, 2002); Deborah Z. Cass, Brett G. Williams, and George Barker, eds., *China and the World Trading System: Entering the New Millennium* (Cambridge: Cambridge University Press, 2003); and Supachai Panitchpakdi and Mark L. Clifford, *China and the WTO: Changing China, Changing World Trade* (New York: John Wiley & Sons, 2002).

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TABLE 1

China's Antidumping Targets (as of 31 March 2005)

Region	*Number of Cases*
South Korea	25
Japan	21
United States	18
EU (or member)	18
Russia	8
Taiwan	7
Others (10 countries)	15

Source: Appendix.

The new dynamics of China's trade policy can be best appreciated by considering its recent experience with the rules of the WTO that permit member countries to enact tariffs or other barriers to counter unfair practices of their trading partners. Between March 1997, when China adopted its first antidumping (AD) statute, and March 2005, Beijing launched investigations into cases of 35 products involving 112 countries in which foreign companies were accused of injuring Chinese industry by exporting their products to China at prices below normal value (see Table 1 and Appendix). Since 2003, China has been the third most frequent initiator of AD charges, trailing only India and the United States. In May 2002, China also invoked safeguard measures to counter what it claimed were dramatic and unexpected surges in steel imports.

However, such tools have encountered numerous obstacles in China. The foreign respondents have won a partial or complete victory in over 45 percent of all concluded AD cases. Moreover, the average duties levied against those found guilty of dumping have been low compared with such penalties levied in cases carried out by other WTO members, including the United States and the European Union (EU).

Although foreign respondents do not win a majority of the cases, their victories are nevertheless impressive and surprising. Why have the domestic Chinese applicants seeking protection from their own government not won more consistently? Antidumping cases are administrative proceedings adjudicated in the applicants' countries, not the respondents'. To borrow a sports analogy, the domestic applicants not only have home court advantage, the referees are on their team. Despite such a favorable setting, applicants occasionally steal defeat from the jaws of victory. How is that possible?

The most common explanations for China's openness focus on officialdom. Numerous scholars stress that China's increasing openness has been due to the stewardship of reformist leaders, who have managed to keep the upper hand over other leaders less committed to openness and over local interests who oppose such moves.[3] Another version of the elite-centered perspective could stress

[3] Harold K. Jacobson and Michel Oksenberg, *China's Participation in the IMF, the World Bank, and GATT: Toward a Global Economic Order* (Ann Arbor: University of Michigan Press, 1990); Susan L. Shirk, *How China Opened Its Door: The Political Success of the PRC's Foreign Trade and Investment*

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that even if China's leaders prefer that Chinese applicants win every case, in order to avoid costly reprisals or trade wars that would harm China's national interests, they occasionally order rulings on behalf of foreign defendants. A second set of explanations would shift attention to how the growing rule of law has made the bureaucracy and courts behave more as neutral arbiters rather than as biased advocates. As such, China's government is seen as increasingly composed of a corps of well-trained, politically protected professionals that decide cases on their merits.[4] Where dumping exists, duties are appropriately instituted; where the respondents have demonstrated that the charges are baseless, no penalties are exacted from the foreign exporters. A final prominent reason given for China's greater openness–which could translate into rulings on behalf of foreign respondents—is that through extensive participation in the General Agreement on Tariffs and Trade (GATT) and WTO, China's leaders and trade officials have undergone fundamental "learning" and internalized the free-trade norms of the global trading system.[5] The "learning" explanation does differ from the above rationales by showing that officials' values can be shaped by external forces; however, even those observers who stress the international transmission of beliefs focus on political elites and bureaucrats as the most important recipients of these ideas and concur that China's national policy-making process is dominated by officialdom.[6]

As helpful as these explanations are at highlighting some general trends in China's trade policy, they are less useful when analyzing discrete trade disputes. China's elites may establish general policy parameters, but they rarely become directly involved in individual cases. And although the national bureaucracy is being streamlined and outfitted with better procedures, there is still evidence

Reforms (Washington DC: Brookings Institution, 1994); Joseph Fewsmith, *China Since Tiananmen: The Politics of Transition* (Cambridge: Cambridge University Press, 2001), 204–217.

[4] Randall Peerenboom, "Seek Truth From Fact: An Empirical Study of Enforcement of Arbitral Awards in the PRC," *American Journal of Comparative Law* 49 (Spring 2001): 249–327; Dali L.Yang, *Remaking the Chinese Leviathan: Market Transition and the Politics of Governance in China* (Stanford, CA: Stanford University Press, 2004).

[5] Margaret M. Pearson, "China's Integration into the International Trade and Investment Regime" in Elizabeth Economy and Michel Oksenberg, eds., *China Joins the World: Progress and Prospects* (New York: Council on Foreign Relations Press, 1999), 161–205; Margaret M. Pearson, "The Case of China's Accession to GATT/WTO" in David M. Lampton, ed., *The Making of Chinese Foreign and Security Policy in the Era of Reform* (Stanford, CA: Stanford University Press, 2001), 337–370.

[6] Kenneth Lieberthal and Michel Oksenberg, *Policymaking in China: Leaders, Structures, and Processes* (Princeton, NJ: Princeton University Press, 1988); Kenneth Lieberthal and David M. Lampton, eds., *Bureaucracy, Politics and Decision-Making in Post-Mao China* (Berkeley: University of California Press, 1992); and Susan Shirk, *The Political Logic of Economic Reform in China* (Berkeley: University of California Press, 1993). More recently, the policy community has been extended to include the legislature and some specialists, but policy is still portrayed as government-driven and determined. Murray Scot Tanner, *The Politics of Lawmaking in China: Institutions, Processes, and Democratic Prospects* (Oxford: Clarendon Press, 1999); Fewsmith, *China Since Tiananmen*; and Barry Naughton, "China's Economic Think Tanks: Their Changing Role in the 1990s," *China Quarterly* 171 (September 2002): 625–635.

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that the decisions of officials and judges are affected by their location in the bureaucracy and their desire for self-aggrandizement, and not an impartial reading of facts. And finally, although most aspects of the global trade system promote liberalism, as will be detailed below, the antidumping regime does not; the more Chinese officials absorb its norms, the more likely they are to favor domestic over foreign industry.

The puzzling victories by foreign respondents are better explained by China's integration into the global economy. Interviews in China and the United States with the various parties to antidumping cases reveal that uneven participation in international supply chains has divided elements of the government and industry into competing camps, with some favoring protection and others preferring lower barriers.[7] The relative power of both sides in specific cases, filtered through the prisms of China's AD rules, explains why in some cases penalties are instituted, and why in others the foreign respondents (and their domestic Chinese allies) come away unscathed. This explanation is similar in character to the findings that international market structures and complaints by domestic nonstate interests have created external and bottom-up pressure, respectively, that has resulted in more liberal Chinese policies.[8] However, the argument presented here goes further by stressing the *direct* involvement of industry, Chinese and foreign, in the national economic policy process, a practice that increasingly occurs across many issue areas.[9]

The story of China's antidumping regime strengthens the position found in the broader international political economy literature that industry interests can be crucial in defending liberal trade policies. Some scholars have held that because interests in favor of protection are better organized and more influential than those favoring openness, liberalization must be explained by the intervention of political elites and well-crafted political institutions that limit the influence of protectionists and/or the spread of liberal ideology.[10] Others, though, have deftly shown that those in favor of openness can be equally proactive in defending their interests.[11]

[7] This article's data are primarily from over fifty interviews conducted mainly in Beijing and Shanghai in 2002 and 2003, with Chinese and other countries' government officials, business executives, association leaders, and lawyers directly involved in antidumping cases. Because of the sensitivity of the information obtained, interview sources must remain anonymous.

[8] Moore, *China in the World Market*; Zweig, *Internationalizing China.*

[9] On the growing direct influence of industry, domestic and foreign, on a wide variety of China's national economic policies, see Scott Kennedy, *The Business of Lobbying in China* (Cambridge, MA: Harvard University Press, 2005).

[10] Stephan Haggard and Robert R. Kaufman, eds., *The Politics of Economic Adjustment* (Princeton, NJ: Princeton University Press, 1992); Judith Goldstein, *Ideas, Interests, and American Trade Policy* (Ithaca, NY: Cornell University Press, 1993); I. M. Destler, *American Trade Politics*, 3rd ed. (Washington DC: Institute for International Economics; New York: Twentieth Century Fund, 1995); Glen Biglaiser, *Guardians of the Nation? Economists, Generals, and Economic Reform in Latin America* (Notre Dame, IN: University of Notre Dame Press, 2002).

[11] Helen V. Milner, *Resisting Protectionism: Global Industries and the Politics of International Trade* (Princeton, NJ: Princeton University Press, 1988); Ronald Rogowski, *Commerce and Coalitions: How Trade Affects Domestic Political Alignments* (Princeton, NJ: Princeton University Press, 1989); Jeffrey

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This article builds on the latter perspective in several ways. First, it highlights the extent to which firms' location in global production networks shapes their policy preferences and leads elements of both domestic and foreign industry, occasionally in concert, to lobby for liberal outcomes. Second, although previous research on the U.S. and EU antidumping regimes only found political influence by protectionist interests, this may be because those studies did not incorporate the potential role of foreign industry and its downstream domestic partners into their models.[12] Hence, this paper draws attention to an underappreciated dynamic of the antidumping regime itself. Lobbying may partly explain why those seeking protection win, but it also may explain why they lose. And third, because China is an authoritarian state with a large state-owned sector and where organized policy advocacy is not expressly encouraged, its recent experience demonstrates the need to understand the role that business has in trade policy formation in a wide variety of political settings.

To appreciate the role of competing nonstate interests in trade disputes, the article begins by explaining the process by which China entered the antidumping game in the first place. This involves articulating the motivations that the Chinese had to adopt an AD regime, the steps they took to learn and institute the regime, and the rules and procedures that define the competition. This is a prerequisite to the central focus of the paper, explaining the varying outcomes of cases by pinpointing the relevant economic and political factors at work. The argument is clarified by comparing several cases that had different outcomes. The discussion concludes by considering the implications of this new appreciation of the forces shaping trade policy.

China's Move from Protectionism to Fair Trade

Although China's entry into and full compliance with the WTO is consistently portrayed by the Western media and politicians as an abandonment of protectionism, the WTO routinely permits members to protect domestic industry in a limited number of circumstances and by certain methods. The underlying norm, what John Ruggie has aptly termed "embedded liberalism," encourages states to liberalize their economies, but it also permits them to adopt countermeasures to soften the blow to domestic labor and business interests. Antidumping is among a group of internationally approved safety valves used to defend against purportedly unfair trade practices, such as dumping and subsidies.[13]

A. Frieden, "Invested Interests: The Politics of National Economic Policies in a World of Global Finance," *International Organization* 45 (Autumn 1991): 425–451.

[12] Studies relying on large-N quantitative analysis include Wendy L. Hansen and Thomas J. Prusa, "The Economics and Politics of Trade Policy: An Empirical Analysis of ITC Decision Making," *Review of International Economics* 5 (May 1997): 230–245; P. K. M. Tharakan and J. Waelbroeck, "Antidumping and Counterveiling Duty Decisions in the E.C. and in the U.S.: An Experiment in Comparative Political Economy," *European Economic Review* 38 (January 1994): 171–193.

[13] John Gerard Ruggie, "Embedded Liberalism Revisited: Institutions and Progress in International Economic Relations" in Emanuel Adler and Beverly Crawford, eds., *Progress in Postwar International Relations* (New York: Columbia University Press, 1991), 201–234.

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The primary force motivating China to adopt an AD regime is the same one that pushed other developed and developing countries alike along the same path: the reduction of tariffs and other traditional nontariff barriers.[14] The world's first AD law was adopted by Canada in 1904, but until the late 1960s, the AD tool was rarely used. Only after advanced capitalist countries had sharply reduced their own trade barriers and had begun to feel competitive pressures from each other and from Japan did they begin to regularly employ this long-dormant weapon. In the 1970s, as developing countries liberalized their economies, they too began to use the same fair-trade tool. These countries tired of simply being the targets of what they perceived to be the over-aggressive use of the AD weapon by their industrialized counterparts. AD has gone from a tool monopolized by a few developed countries to an equal opportunity weapon used by countries rich and poor alike.[15] The most significant exception to this trend is Japan. Although the leading object of AD investigations in the 1980s, Japan's government has opted not to employ AD measures itself in order to avoid further criticism of its trade regime by the United States and Western Europe and in the hope that the AD code would be reformed or eliminated.[16]

China's route to AD fits the general pattern. The Mao-era policy of autarky gave way to a highly managed trading regime in the 1970s and 1980s. During the 1990s, as part of the effort to promote growth and gain membership in the GATT/WTO, the old system was gradually dismantled, and it was buried for good upon China's entry into the WTO in late 2001.[17] As China discarded its traditional trade barriers, the question became what, if anything, could China do to shelter domestic producers from foreign competition upon accession. Although most scholars have focused on the obligations China must meet to be a WTO member, early in the application process, China began to stress that membership also carried with it certain rights.[18]

[14] Traditional barriers include: tariffs, subsidies or loans to domestic industry, limited trading rights for foreign firms, bans or quotas on imported products, licensing systems for imports, foreign exchange controls, and cartels. Protective steps available under the GATT/WTO include: antidumping measures; antisubsidy (countervailing) measures; safeguard measures; standards for health, safety, the environment, labor, and technical standards; and antimonopoly statutes that discriminate against foreign companies.

[15] Boltuck and Litan correctly predicted that because of the U.S.'s and EU's frequent use of antidumping, developing countries would eventually use these same tools against their originators. Richard Boltuck and Robert E. Litan, eds., *Down in the Dumps: Administration of the Unfair Trade Laws* (Washington DC: Brookings Institution, 1991). Also see Brink Lindsey and Daniel J. Ikenson, *Antidumping Exposed: The Devilish Details of Unfair Trade Law* (Washington DC: Cato Institute, 2003).

[16] Hidetaka Yoshimatsu, "The Political Economy of Antidumping in Japan," *Journal of the Asia Pacific Economy* 6 (February 2001): 22–46. Interview sources also suggest that Japan has had adequate alternative nontariff barriers, making AD measures unnecessary. Interviews #D33, #D34, #D38, #D39, and #D40. While some sources believe that the Japanese prefer to avoid formal legal disputes, their activism in the WTO suggests otherwise. Saadia M. Pekkanen, "International Law, Industry and the State: Explaining Japan's Complaint Activities at the WTO," *Pacific Review* 16 (September 2003): 285–306.

[17] On the evolution of China's trade regime, see Rajiv Lall, *China: Foreign Trade Reform* (Washington DC: World Bank, 1994); and Lardy, *Integrating China into the Global Economy.*

[18] The other rights include permanent most-favored-nation trading status, national treatment, access to WTO dispute resolution, and participation in the revision of WTO rules. Language emphasizing

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TABLE 2

Antidumping Investigations Initiated against China, by Importing Country (1995–2004)

Rank	*Country*	*Cases*	*Percent of Total*
1	India	76	18.5
2	United States	57	13.9
3	EU	52	12.7
4	Argentina	40	9.7
5	Turkey	34	8.3
6	South Africa	20	4.9
7	Australia	18	4.4
8	Peru	17	4.1
9	Canada	17	4.1
10	Brazil	15	3.6

Source: WTO Anti-Dumping Database (www.wto.org).

A sense of urgency to defend their rights existed because of how often China itself had been an object of AD investigations by other countries. From 1979 to 2004, China's trade partners investigated Chinese firms in over 650 cases. Between 1995 and 2004, Chinese companies were hit with dumping tariffs almost 300 times.[19] Although the United States and the EU were the primary instigators of cases in the 1980s, as Table 2 shows, India has leapt to the front.

These cases jarred the Chinese into recognizing that the world trade order was not a purely free one. Chinese officials and enterprise heads were particularly upset that China had been treated as a nonmarket economy when investigated. The United States, the EU, and others argued that the Chinese government set prices and provided subsidies to industry, allowing the Chinese to sell goods abroad at lower prices than otherwise would have been possible. Under such circumstances, GATT/WTO rules allow investigating countries to ignore the price of the good in the Chinese market and use a surrogate country to determine the normal market value against which the actual export price is compared. In short, the United States and others were seen as hypocrites who discriminated against China.[20]

rights and obligations has been used regularly by Chinese trade negotiators and senior leaders since at least the early 1990s. See "Li Lanqing Receives GATT Official, Calls for Membership," BBC Monitoring Service, 19 October 1993; Pan Guojun, Ban Wei, and Shao Jie, "Solemn Commitments," Xinhua News Agency, 11 November 2001, accessed from the Factiva database (www.factiva.com), 30 November 2003.

[19] WTO Anti-Dumping Database; Zhang Lu, "Learning to Use WTO Rules for Protection," *China Daily*, 6 July 2004; Mark O'Neill, "Dinner Guest China Has Much More on Its Plate than G7 Ambitions," *South China Morning Post*, 22 January 2005, 12.

[20] According to China's WTO accession agreement, WTO members are permitted to treat China as a non-market economy for the first fifteen years of its membership. Chinese firms and officials opposed this status because they that believe China's market economy is well developed and that the cost structure of production in the surrogates chosen, most often India, is higher than in China, making it easier to find dumping by the Chinese. Said Cho Tak Wong, chairman of a glass company hit with AD duties in the United States: "Out of the Americans' mouths come speeches about free trade, but what they do is something else." Neil King, Jr. and Peter Wonacott, "Bush's China-Trade Dilemma:

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This experience also taught China that challenging dumping accusations pays off. Prior to 1994, Chinese firms never responded to investigators' notices and requests for information.[21] From 1987 to 2002, Chinese firms escaped penalties in only 25 percent of cases, but beginning in the late 1990s, they achieved some notable victories in cases that they proactively challenged.[22] Winning marginally reduced the sense that the trading rules were invariably rigged against China and demonstrated the value of learning the complicated AD system as both a defensive necessity and an offensive tactic. A Chinese trade lawyer spoke for many when he said that because the United States uses AD to protect its producers against the Chinese, "We're going to learn how to use the same weapon."[23]

Adequately motivated, the next step was for the Chinese to become proficient at using what is an extremely complicated regime that requires economic, business, and legal expertise that was in short supply in China. Beginning in the late 1980s, a community gradually emerged, composed of international trade specialists, lawyers, and trade officials, who became committed to the notion that within the context of liberalization, China should use internationally authorized legal means, including AD, to protect domestic industry. Early proponents of this approach emerged at the University of International Business and Economics among professors and graduate students in international trade law. Two of the most influential have been Professor Zhou Shijian and his student, Wang Xuehua. In 1997, Zhou became vice president of the China Chamber of Commerce of Metal and Chemical Importers and Exporters, where he has spearheaded those industries' responses to AD cases abroad. Wang and a col-

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Get-Tough or Go-Easy Method?" *Wall Street Journal*, 14 November 2002. Also see Nigel Holloway, "Sweet Smell of Excess," *Far Eastern Economic Review*, 5 September 1996, 61. In April 2004, China began a campaign to have other WTO members officially declare China a market economy. As of March 2005, thirty-two countries, primarily from Asia, Africa, and Latin America had granted China's request. However, collectively they consumed less than 15 percent of China's exports in 2003, and only thirteen had ever launched an antidumping case against China. For an example, see "Armenia Recognizes China's Full Market Economy Status," Xinhua News Agency, 27 September 2004.

[21] Chang Tianle, "Chinese Companies Fight for Rights," *China Daily*, 21 February 2003.

[22] WTO Anti-Dumping Database. Seventy-one percent of the metal and chemical product cases that the Chinese contested between 1995 and 2000 went in their favor. "China is Primary Target of International Anti-Dumping Campaign, Vice Minister Says," *ChinaOnline* (www.chinaonline.com), 22 February 2001, accessed 1 February 2003.

[23] Craig S. Smith, "Joining the Club: Like Others, China Will Try to Protect Its Own Industries," *New York Times*, 23 May 2000. Said a Chinese government researcher, "We should admit antidumping is a demand for fair trade in the international market. Antidumping is based on the WTO Antidumping Agreement. These rules are not aimed at China; they are for use in regard to all members' imported products. For Chinese products to enter overseas markets, we must use WTO-related rules, obey and abide by these rules, play cards according to the rules, and only in this way can [we] effectively protect enterprises' own rights and interests." Wang Zhongming, *WTO guize shiwu peixun duben* [Practical Training Reader on WTO Rules] (Beijing: CPC Party School Press, 2002), 168. Also see Wang Yiwei, "Fanqingxiao shang xu jiandun limao" [Antidumping Still Needs Firm Shield and Sharp Spear], *Zhongguo gongshang shibao* [China Business Times], 7 March 2002.

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league opened their own private law firm in 1993. The two later parted ways, and since then, Wang has become the country's most prominent advocate for initiating AD cases against foreign firms exporting to China. As part of his effort to raise legal awareness and, not coincidentally, attract business, Wang has lectured on AD before numerous national and local government agencies, universities, research institutes, and companies.[24]

Critical to the domestic community's growth has been its interaction with and integration into the AD regime's global legal and bureaucratic leadership.[25] Several international law firms with offices in China have active AD practices, most often representing the foreign companies accused of dumping in China. Because these foreign law firms have not been allowed to participate in hearings (or in court), they work in conjunction with local firms. Foreign firms have also hired and trained Chinese lawyers, many of whom are especially useful because of their contacts with government officials. In addition, since the mid-1990s, like Wang Xuehua, foreign lawyers have held seminars and given lectures to officials, lawyers, and companies across the country.[26] On top of these efforts, the WTO Secretariat has been quite active in teaching developing countries about the global AD regime. Its Rules Division has led dozens of training seminars around the world, including in Beijing and Geneva, and it has provided AD law templates to member countries.[27] It is through such cooperation that Chinese lawyers have been exposed to international "best practices." Once trained themselves, trade officials have gone on to host training programs for officials in other ministries, local governments, industry associations, and enterprises.[28] Such direct communication has been supplemented by a rich assortment of books and articles.[29] The result of these efforts has been the emergence of a group of specialists and a growing awareness among local industry of both China's responsibilities and rights as a WTO member.

[24] Interview #D3; Wang Yong, "Dumping Allegation Trashed," *China Daily Business Weekly*, 5 November 2000; Wang Yiwei, "Zhongguo qidong fanqingxiao 5 zhounian—yige haode kaishi—fang beijing huanzhong lushi shiwusuo wang xuehua" [5th Anniversary of Launching Antidumping—A Good Start—Interview with Huanzhong Law Firm's Wang Xuehua], *Zhongguo gongshang shibao* [China Business Times], 25 March 2002.

[25] It should be stressed that the norms and behavior of Chinese trade lawyers differ substantially from those of lawyers in other areas. Ethan Michelson, "Unhooking From the State: Chinese Lawyers in Transition" (Ph.D. dissertation, University of Chicago Department of Sociology, 2003).

[26] Interviews #D7 and #D12.

[27] Interview #D18.

[28] Interviews #D10 and #D27.

[29] Chen Jing, *Anyi WTO fanqingxiao xieyi* [Annotations by Cases to WTO Antidumping Agreement] (Beijing: University of International Business and Economics Press, 2002); Han Qiaowen, *WTO 100 wen: hangye xiehui zai zhongguo ru shi hou de sikao* [100 Questions on WTO: Thoughts for Industry Associations after Joining WTO] (Shanghai: Shanghai People's Press, 2002); He Maochun, *Zhongguo duiwai jingji maoyi baipishu 2002* [China Foreign Trade and Economy White Paper 2002] (Beijing: China Materials Press, 2002), 470–527; and Liu Wanfang et al., *Zhimian fanqingxiao* [Facing Antidumping] (Guangdong: Guangdong Economics Press, 2001).

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China's Antidumping Code: Adopting "Best Practices"

Motivated by the need to compensate for reduced barriers and led by a community of officials, lawyers, and industry representatives, China has adopted rules and procedures that are largely consistent with the requirements of the WTO. What makes China's AD regime appear protectionist is not how much it diverges from, but rather how closely it approaches international "best practices." This can be seen by examining the principles and specific rules that define dumping and provide the guidelines for determining whether dumping has occurred, and the institutions and procedures by which cases are handled.

Consistent with global practice, China does not define dumping as selling below cost in an effort to eliminate competitors. Although such behavior, known as predatory pricing, embodied the original conception that dumping was part of an effort to gain a monopoly, it is extremely difficult to prove.[30] Thus, in the 1910s, dumping was redefined as price discrimination, in which exporters sell a product abroad at a price below what it sells for in the home market, what is known as "normal value." Dumping is deemed unfair because this behavior, it is argued, can only occur when the exporters operate in a sheltered home market in which the government institutes high trade barriers, provides subsidies, or permits cartels. Firms can then sell their products abroad more cheaply than would be the case in a competitive market, and thus, the perpetrators take away customers (and profits) from competitors in the destination market.[31] If competitors in the importing country can demonstrate that they have been injured by dumping, then their government is within its rights to institute a tariff against the exporting firms equal to the "dumping margin," that is, the gap between the product's actual export price and its proper normal value. Thus, the underlying principle of AD law shifted from opposing monopolies to opposing unfair trade practices, and the standard of proof shifted from demonstrating intent (predation) to showing the consequences (injuring domestic producers).

China has inherited not only the global regime's basic principles but also its more detailed rules and procedures. China's first AD statute, adopted in 1997, was partially consistent with GATT/WTO guidelines but was quite vague in

[30] Greg Mastel, *Antidumping Laws and the US Economy* (Armonk, NY: ME Sharpe, 1998); Raj Krishna, "Antidumping in Law and Practice," *World Bank Working Paper Series*, No. 1823 (September 1997); J. Michael Finger, "The Origins and Evolution of Antidumping Regulation" in J. Michael Finger, ed., *Antidumping, How It Works and Who Gets Hurt* (Ann Arbor: University of Michigan Press, 1993).

[31] Critics of antidumping identify many legitimate reasons to sell goods below typical prices, including clearing out inventory when goods are in over-supply and gaining a foothold in a new market. These practices are common—and legal—when done within a country. Gary N. Horlick and Steven A. Sugarman, "Antidumping Policy as a System of Law" in Miguel Rodriguez Mendoza, Patrick Low, and Barbara Kotschwar, eds., *Trade Rules in the Making: Challenges in Regional and Multilateral Negotiations* (Washington DC: Organization of American States and the Brookings Institution, 1999), 341–364.

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many areas.[32] The regulation was substantially revised in November 2001, just prior to China's WTO entry; multiple implementing rules were issued in 2002, and a modestly revised version of the statute was issued in 2004. The revised AD statutes closely follow the WTO Antidumping Agreement, even verbatim, in some instances.[33]

Thus, China's regime has incorporated changes in the global rules adopted over the past thirty years that have eased, not tightened, the standards necessary to prove that foreigners have dumped goods and that such actions significantly injured domestic producers. Proving dumping originally involved making a direct comparison of a good's export price and its home market price based on detailed information provided by the accused exporters. With the statutory changes, when the home market price is too difficult to determine or unreliable, investigators can estimate it in a variety of ways, such as estimating the cost of production (plus a profit margin) or using actual or estimated prices of the good from a third country. The standard in China for proving injury, like the global AD regime, involves merely showing that the dumping is just *one* cause of the domestic industry's plight. In practice, investigators the world over have only had to find the coexistence of dumping and poorly performing domestic companies to prove causation between the two.[34] Moreover, under pressure from import-competing industries, the United States and others made sure that GATT and WTO rules do not require that the damage to other domestic interests (such as downstream users or consumers) caused by raised tariffs be considered by investigators when determining whether to find in favor of the accusers. Such a "public interest" provision, which has not been in Chinese law, has only been adopted by a few countries.[35] These rules, in China and else-

[32] Lester Ross and Susan Ning, "Modern Protectionism: China's Own Antidumping Regulations," *China Business Review* 27 (May–June 2000): 30–33.

[33] The text of the WTO Antidumping Agreement is on the WTO's website (www.wto.org), accessed 8 June 2005. The text of the original PRC Anti-Dumping and Anti-Subsidy Regulations, promulgated 25 March 1997, is online at NovexCn.com (www.novexcn.com/anti_dump_subsidy_97.html), accessed 8 June 2005. For the text of the PRC Anti-Dumping Regulations, issued 26 November 2001, implemented 1 January 2002, and its implementing regulations, see the U.S. Department of Commerce's Trade Remedy Compliance Staff website accessed at http://ia.ita.doc.gov/trcs/downloads/documents/china/index.html, 8 June 2005. Also see Patrick M. Norton and Kermit W. Almstedt, "China's New Anti-dumping Rules: Battleground for a New Protectionism?" *China Law & Practice* 16 (February 2002): 79–83; and Patrick M. Norton and Kermit W. Almstedt, "China Joins the Trade Wars," *China Business Review* 30 (January–February 2003): 22–29, 42. The revised 2004 statute is available from the Ministry of Commerce, "China Trade Remedy Information" (www.cacs.gov.cn).

[34] Thomas J. Prusa and Susan Skeath, "The Economic and Strategic Motives for Antidumping Filings," *NBER Working Paper Series* 8424 (August 2001): 4; Patrick A. Messerlin and Geoffrey Reed, "Antidumping Policies in the United States and the European Union," *The Economic Journal* 105 (November 1995): 1569.

[35] The EU and Canada have explicit public interest provisions. Australia has issued subsidiary legal interpretations of their laws authorizing investigators to consider the effect of dumping on the overall national Australian interest. Donald Feaver and Kenneth Wilson, "An Evaluation of Australia's Anti-Dumping and Countervailing Law and Policy," *Journal of World Trade* 29 (October 1995): 207–237.

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where, tilt the scales strongly in favor of the accusers, leaving many to believe that the antidumping system that purports to stop unfair trade is itself inescapably biased.[36]

China's Antidumping Procedures: New Roles for State and Society

Because of the potential benefits to domestic industry, it is not surprising that China has adopted the principles and rules of the global AD regime. Less expected, though, is the extent to which the government has been willing to modify the process by which trade disputes and policy are handled. These changes are inconsistent with perspectives that stress either a dominant role for elites or an autonomous bureaucracy that strictly follows the law. Nonstate actors are central to the entire process.

In the past, foreign economic policy was strictly a government concern. Trade and investment authorities, in consultation with other ministries and the senior political elite, determined which sectors and products to protect and by what means. Those decisions were not open to systematic influence from Chinese enterprises, not to mention foreign industry. In the case of fair trade disputes, by contrast, the government acts in response to complaints lodged by domestic industry. The Chinese government's role has switched from that of advocate to that of arbiter; even if it prefers to play advocate, it must at least maintain the pretense of being evenhanded. The division of labor within the government in China also mirrors that of other WTO members. Once the authorities accept a case, they launch investigations into whether there has been dumping and whether the dumping caused the injury claimed by the applicants. China copied the American system in having these two elements of the case investigated by separate agencies. The Ministry of Foreign Trade and Economic Cooperation (MOFTEC) Fair Trade Bureau for Imports and Exports has investigated dumping, whereas the State Economic and Trade Commission (SETC) Industry Injury Investigation Bureau has examined the injury claim. Although these bureaus were placed under the new Ministry of Commerce in March of 2003, their respective responsibilities have remained the same.

As the role of government has shifted, that of the "interested parties"—the accusing domestic applicants and the accused foreign respondents—has grown. Domestic companies threatened by imports are assisted in their claims by legal counsel. Although industry often seeks legal aid after feeling the effects of dumping, lawyers also alert industry to such behavior. Following the example of some foreign firms, Wang Xuehua's Huanzhong Law Firm operates as the international trade law equivalent of an "ambulance chaser," tracking industries and initiating contact with potential clients. Wang's firm has represented

[36] Lindsey and Ikenson, *Antidumping Exposed.*

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the domestic applicants in a majority of the AD cases in China.[37] Chinese trade associations have become involved as well. They have helped their members initiate cases, have initiated cases themselves, and have participated in investigations.[38] And like associations elsewhere, several have established monitoring systems to track the prices and market shares of domestic and foreign firms.[39] On the other side, the foreign firms accused of dumping and their representatives also are institutionally included in the process. And although their direct interests are not required to be considered, the downstream users of the imported goods, who in principle are allies of the foreign companies, are often involved in the cases as well. The last notable aspect regarding the participants is how China has modified its definition of "domestic" and "foreign" industry to be consistent with WTO requirements. Because the law is aimed at protecting firms that produce within China's borders, foreign-invested companies, even wholly foreign-owned enterprises, can apply for relief, a request that has been granted in several cases.

The process by which cases are adjudicated also differs from the past. The Fair Trade Bureau uses questionnaires, onsite investigations, and formal hearings with the interested parties to determine whether dumping has occurred. The Industry Injury Investigation Bureau relies on interested parties' written submissions, hearings, and informal meetings to determine whether the dumping has injured domestic industry. If both bureaus find on behalf of the applicants, preliminary dumping tariffs are announced. Further information is collected, allowing applicants and respondents to elaborate their positions before a final determination is issued. The reasoning underlying the decision must be spelled out in both the preliminary and final rulings.[40]

In the earliest cases, the Fair Trade Bureau and the Industry Injury Investigation Bureau cut many corners in their investigations and did not provide sufficient explanations for their determinations. Almost without exception, observers interviewed for this study agree that the various aspects of investigations increasingly conform to WTO rules. Such progress reflects both a process of learning by doing and the approaching requirement to adhere to the WTO Antidumping Agreement. The questionnaires are clearer, and hearings, originally not well run, have improved. In an early Fair Trade Bureau hearing on dump-

[37] Boheng Law Firm, also located in Beijing, has also recently become one of the leading firms to represent Chinese applicants seeking protection from imports.

[38] On the evolution of government policy toward trade associations and their role in other economic policy making, see Kennedy, *The Business of Lobbying in China.*

[39] Julia Han, "Officials Prepare for Anti-Dumping Lawsuits," *South China Morning Post*, 16 April 2001; Han, *WTO 100 wen*; Yu Hui, *Hangye xiehui ji qi zai zhongguode fazhan* [Industry Associations and Their Development in China] (Beijing: Economic Management Press, 2002): 88–110; "Huagong fanqingxiao 're' zhong you 'leng'" [Cold Spell in Petrochemical Antidumping Fever], *Zhongguo huagong bao* [China Petrochemical News], 7 April 2003.

[40] Final determinations are formally issued by the State Council Tariff Policy Commission. Composed of officials from trade and other parts of the bureaucracy, it has the authority to adjust tariff levels but not to fully reverse a verdict. Interview #D48.

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ing, much of the discussion focused on injury, even though that is an issue that only the Industry Injury Investigation Bureau (then under the SETC) is supposed to investigate. At an early SETC hearing, a company not party to the case was allowed to attend and make remarks, despite violating standard international procedures by doing so. Over time, hearings have become better structured, with more opportunity for both sides to present their positions. In the injury hearings, in particular, the official panelists pepper both applicants and respondents with questions. The Fair Trade Bureau has become more open to using pricing information and arguments from respondents; its dumping determinations have gone from stating only the findings to including detailed justifications as to how the dumping margins were calculated. And finally, investigators increasingly abide by time requirements concerning the period between domestic industry's application and their decision of whether to accept the case, and the length of the investigation itself. Despite some continuing problems, China's antidumping system increasingly looks and operates like those in advanced industrialized countries.[41]

Determining Winners and Losers

Reviewing why the Chinese government adopted antidumping into its trade regime and how the system operates in China provides the necessary foundation for analyzing the factors that determine the outcome of specific cases. Despite the existence of an authoritarian state with a well-deserved reputation for aiding domestic industry at the expense of foreign interests, domestic applicants' success rate (the proportion of cases in which they win relief) is far from 100 percent. As Table 3 shows, China has a higher success rate than do most countries, but some other long-standing WTO members have even higher rates. In addition, the way in which the WTO calculates success rates (at the country level) masks instances in which individual foreign companies are not found guilty, even when others from their country are, or when their products have been exempted from AD duties, outcomes which have occurred several times in China. If one tallies outcomes by product (more than one country is typically investigated in any given product case), in only thirteen of twenty-four concluded cases has the decision been entirely in the applicants' favor (see Appendix). Moreover, the average penalty that China invokes against foreign dumpers is much lower than that of most other countries (see Table 4).

[41] As of 2003, foreign respondents still criticized procedures, rulings, and limits on appeals. Authorities have granted more latitude to domestic applicants than to respondents in making their documents confidential, and domestic applicants appear to have more *ex parte* communications with officials than do foreign respondents (although foreign respondents and their domestic customers also usually have good connections with officials). The justifications for the dumping margins, injury, and causation are claimed to be unpersuasive and not as detailed as decisions issued by the EU and the United States. And although judicial review regulations have been issued in accordance with WTO requirements, an appeal has yet to be heard in a Chinese court. Losing respondents could appeal to the WTO for dispute resolution but have yet to do so.

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TABLE 3

Success Rate of Major Initiators of Antidumping Cases (1995–2001)*

Rank	*Country*	*Success Rate*
1	India	95.5
2	Egypt	89.3
3	Turkey	79.2
4	Venezuela	75.9
5	China	75.8
6	Mexico	73.9
7	South Africa	73.3
8	United States	66.2
9	Republic of Korea	65.9
10	Canada	64.7
11	EU	61.8
12	Argentina	61.5
13	Colombia	58.8
14	Peru	58.1
15	Brazil	55.3
16	Indonesia	45.2
17	Australia	29.5
18	New Zealand	29.4

Sources: Compiled from the WTO members' reports on their dumping activity, available in the WTO Anti-Dumping Database; and the Ministry of Commerce "China Trade Remedy Information" website (www.cacs.gov.cn).

* *Note*: Includes only countries that initiated at least twenty cases during the period.

TABLE 4

Average Antidumping Tariffs of Major Initiators (1995–1999)*

Rank	*Country*	*Tariff (%)*
1	Argentina	84.8
2	Australia	59.3
3	Mexico	59.1
4	Brazil	53.2
5	United States	47.6
6	South Africa	45.2
7	Canada	44.7
8	China	31.1
9	Republic of Korea	28.9
10	EU	27.7
11	Turkey	10.6

Sources: Non-China data from Bruce Arnold, "Antidumping Action in the United States and Around the World: An Update," Congressional Budget Office paper, June 2001, p. 70. China data from the Ministry of Commerce, WTO, and media reports.

* *Notes*: Non-China data are based on cases initiated from 1995 to 1999; Chinese data are from cases initiated between 1997 and 2001. Data for India and some others listed in Table 3 are not available.

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Previous research on other countries' AD regimes suggests that case outcomes are affected by three factors: the specific AD rules, the nature of the government institutions that adjudicate cases, and pressure from industry interests. From 1955 to 1968, the success rate of cases in the United States was only 3.2 percent. Following the adoption of more lax standards for determining dumping and injury, the success rate jumped to over 50 percent during 1980–1993.[42] Because their expected missions and autonomy from outside pressures vary, which institutions are responsible for adjudicating AD disputes also can affect case outcomes. After responsibility for determining the dumping part of an applicant's claim in the United States shifted from the Treasury Department to the Department of Commerce (DOC) in 1979, claims found a more sympathetic ear, with the DOC finding dumping in 95 percent of applications. By contrast, in Australia, the government created an independent Anti-Dumping Authority in the late 1980s to act as a check against the more pro-domestic industry slant of the Customs Service. The independent office was eliminated in 1998, and since then, Australia's success rate has almost doubled.[43]

Despite the technical features of AD, industry lobbying has also played a major role in determining case outcomes. In the United States, companies with a large number of employees and with production facilities in districts with a member on the House Ways and Means Subcommittee on Trade have the greatest chance of winning their cases, as do those who give greater campaign contributions to those members. The trade subcommittee members can bring pressure to bear on the DOC and International Trade Commission by holding hearings, by adjusting the agencies' funding, and by back-room lobbying.[44] In the European Union, industries concentrated in a certain region or dominated by a few companies win more often than less-concentrated ones. In addition, the members of the EU's Council of Ministers, which makes the final rulings, regularly engage in horse-trading on cases at the behest of business interests from their respective countries.[45] But not only do protectionist interests pres-

[42] I. M. Destler, *American Trade Politics*, 3rd ed. (Washington DC: Institute for International Economics; New York: Twentieth Century Fund, 1995), 141, 154. During the AD regime's first forty-seven years (1921–1967), the global success rate was just over 10 percent. Finger, "The Origins and Evolution of Antidumping Regulation," 26. The average AD tariff rate imposed on foreign respondents in U.S. cases has risen as well. Brink Lindsey, "The US Antidumping Law: Rhetoric versus Reality," *Journal of World Trade* 34 (February 2000): 1–38.

[43] Donald Feaver and Kenneth Wilson, "An Evaluation of Australia's Anti-Dumping and Countervailing Law and Policy," *Journal of World Trade* 29 (October 1995): 207–237; Richard Whitwell, *The Application of Anti-Dumping and Countervailing Measures by Australia* (Rockhampton, Australia: Central Queensland University Press, 1997); "Anti-dumping Needs Review," *Australian Financial Review*, 19 June 2000, 68; and WTO Anti-Dumping Database.

[44] Hansen and Prusa, "The Economics and Politics of Trade Policy"; Wendy L. Hansen, "The International Trade Commission and the Politics of Protectionism," *American Political Science Review* 84 (March 1990): 21–46; and Philip A. Mundo, *National Politics in a Global Economy* (Washington DC: Georgetown University Press, 1999), 231–274.

[45] Tharakan and Waelbroeck, "Antidumping and Counterveiling Duty Decisions in the E.C. and in the U.S."; Interview #D19.

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sure governments, the foreign respondents and their domestic allies—importers, downstream users, and consumer groups—make their voices heard as well. In the United States, downstream users of steel, semiconductors, and other inputs have successfully lobbied to have trade penalties lowered or shortened.[46]

Similar pressures exist in China and are more important in determining the outcomes of cases than are reformist political elites or bureaucrats acting on their own accord to defend their organizations' interests or impartially implement the rules. It is unclear how China's AD statutes affect the success rate, because the rules apply across cases and are similar to those in other countries. And because the success rate has not changed appreciably since the Ministry of Commerce took over adjudication of cases, the bureaucratic structure does not appear to independently affect cases.

The impact of competing interest group pressures in China, on the other hand, is quite visible. Interested parties' ability to influence whether their cases are investigated and the case outcomes is determined by their economic circumstances and their political clout.

The vast majority of cases investigated to date have involved chemical and steel products. Both industries are highly concentrated, relative to other sectors in China. Because the AD rules require that applicants control at least 25 percent of the domestic market, high concentration makes it easier for firms in these industries to meet this threshold and coordinate the submission of a petition. Equally important, these industries are relatively less integrated into international production and sales networks than are most industries; they are involved in relatively few joint ventures, and they primarily produce for the domestic market.[47] Thus, chemical and steel firms generally see imports as anathema to their interests. And because they are large and state owned, the most important firms in these industries have significant political influence at the local and, sometimes, national level. Hence, when they complain, the government is more likely to respond with help. Given the usual applicants, respondents face an uphill fight in defending themselves.

Despite rules that favor domestic producers and despite the economic and political weight of many of the domestic firms that apply for protection, foreign respondents have achieved partial or complete victories in more cases than one might expect. The key to explaining this puzzle is to recognize that foreign exporters may be economically and politically powerful themselves and, even more important, they may have important allies—the Chinese industries that buy and use their products. When the Chinese importers and downstream users of their goods come to their defense, foreign respondents have a strong chance of winning their cases. This is despite the fact that China's AD regulations have not officially recognized the interests of these groups as a legitimate concern. In cases in which they have pressed their views before the Chinese government, respondents have never been fully defeated.

[46] Destler, *American Trade Politics*, 195–196; Mundo, *National Politics in a Global Economy*, 266.

[47] Using Milner's typology, such characteristics are indicative of Type-1 firms, which are typically most in favor of protection. Milner, *Resisting Protectionism*, 24–26.

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Three conditions determine whether the natural economic allies of the foreign respondents become involved in a case. The first is how important the imported product is to its domestic users. When good domestic substitutes for an imported product are not available and quality is critical (for example, when using the imported good in the production of another good that is to be exported), the interest of downstream users in the AD case rises. Second, if downstream users are large and, thus, important economically and politically, they are more able to influence the outcome of a case. And third, a downstream user that has a bureaucratic representative who can insert his opinion into a case is more likely to have its interests taken into consideration.

Blowing Home Court Advantage

The integration of Chinese industries into global supply networks has divided the Chinese into competing camps, alternately aligned against and allied with foreign business. The relative strength of each side and their relative access to the deliberation process directly affect the outcome of antidumping disputes. To demonstrate how these dynamics operate, what follows is a description of three cases that had different outcomes due to the varying involvement of the Chinese allies of the foreign respondents.

Newsprint

In China's first antidumping case, launched in November 1997, domestic newsprint producers accused Canadian, South Korean, and American firms of selling newsprint in China at far below normal value, leading to a surge in imports that left domestic producers in terrible financial difficulty. Although little evidence was presented to demonstrate that the applicants were injured by dumping, they still won a complete victory in the case.[48] And although they may have been justified in their claims, equally important, the foreign respondents were unable to persuade the importers of their products to speak up. They were unlikely to do so because newsprint of similar quality could be provided easily by producers in China. Moreover, even if their costs rose, that did not matter much, because the state-owned newspapers that used newsprint had very soft budget constraints. Hence, switching suppliers mattered little, regardless of the cost. In addition, although some of the end-users, such as the *People's Daily*, were big and politically relevant, they were organizations that typically followed orders. And, finally, these producers had no obvious bureaucratic ally who would come to their defense. These factors all conclusively worked in the domestic applicants' favor and against the interests of the foreign respondents.[49]

[48] Gao Wei, "Anti-Dumping Ruling on Newsprint Imports," *China Daily*, 4 June 1999; Kermit Almstedt and Patrick M. Norton, "China's Antidumping Laws and the WTO Antidumping Agreement (Including Comments on China's Early Enforcement of its Antidumping Laws)," *Journal of World Trade* 34 (December 2000): 75–113.

[49] Interviews #D9 and #D15.

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Stainless Steel

By contrast, Japanese and South Korean stainless steel producers achieved a partial victory in a case initiated in June of 1999. That seemed unlikely at the outset, because the applicants were three important steel producers (Taiyuan Steel, Shaanxi Precision Steel, and Pudong Specialty Steel), and Pudong Steel had just been merged into Baoshan Iron & Steel (Baogang), China's most advanced and politically influential steel manufacturer. Despite being the world's largest producer of steel, in the 1990s China became a large importer of high-quality stainless steel that its firms could not produce themselves. It was, thus, in the domestic applicants' interest to lock foreign firms out of the market while they developed a greater independent capability in this area. Behind the scenes, the applicants and Baogang lobbied hard for an affirmative ruling, which they won. Several Japanese respondents paid AD duties, while one Japanese and six South Korean firms agreed to a price undertaking in which they raised the prices of their goods an amount equal to the dumping margin.

Despite the apparent ruling in favor of the applicants, the respondents won a partial victory. Many of their goods were granted exemptions from the penalties, and the goods they sold to duty-free zones in China were exempted from having to pay any tariff, standard or AD. The compromise was reached because the respondents persuaded their Chinese customers to submit briefs to MOFTEC and the SETC in their defense. They argued that the domestic stainless steel producers did not produce precisely the same goods as the foreigners (the width and quality of the steel sheets were different) and that the imported goods were critical to the final products, which were to be exported. In addition to the vital role of these products to their businesses, the end-users who complained were famous large home appliance and auto manufacturers who could gain the ear of senior trade officials and who could also mobilize local and national officials to carry their banner. Multiple industry and government interview sources report that MOFTEC and the SETC, feeling pressure from both sides, decided to split the difference.[50] Since the ruling, stainless steel imports have risen significantly.[51]

Lysine

Three producers of the chemical lysine, an amino acid often added to animal feed, brought a case against American, South Korean, and Indonesian producers in June of 2001. One of the three applicants was a typical state-owned enterprise seeking import protection; the other two were joint ventures hoping to lock out of the Chinese market their foreign rivals who had not invested in the

[50] Patrick M. Norton and Kermit W. Almstedt, "Defending Dumping Claims: Exporters to China Beware," *China Law & Practice* 14 (June 2000): 32–39; Interviews #D7, #D12, #D21, #D48, and #D51.

[51] "China's 2002 Imports Top Those into the USA," *Steel Business Briefing*, 21 February 2003.

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People's Republic of China.[52] After an eighteen-month investigation, the government determined that the three respondents had dumped their products in China but that the sales did not injure domestic lysine producers. So, the case was dismissed.

The foreign respondents benefitted from three circumstances. First, the trade association to which the domestic applicants seeking relief belonged, the China Feed Association, had both members that produced lysine and others that used lysine in their products—most importantly, animal feed. At a hearing held in January of 2002, the China Feed Association presented evidence on behalf of its downstream members. One such member is the Hope Group, one of China's largest private feed producers, whose president is also a member of the National People's Congress. An interview source suggests that the Hope Group persuaded the Feed Association to take its side, deflating the arguments of the applicants.

Second, the Ministry of Agriculture weighed in on the side of the respondents as well, arguing that a victory for the applicants would result in a rise in the price of animal feed, the brunt of which would be borne by China's farmers. In addition to having a vested interest in the stake of farmers, the Ministry of Agriculture was allowed to contribute its opinion because Article 7 of China's AD regulations states that in any case involving agricultural products, the Ministry of Agriculture must be consulted. Hence, although some of the downstream users of the respondents' products (feed producers) were large and influential, the respondents also benefitted from a situation in which farmers, fragmented and unlikely to be aware of the case, had a bureaucratic patron that the law specified should defend their interests.[53]

Third, the clout of the foreign respondents, while it probably did not affect the case's ultimate ruling, did impact the timing of the verdict. The three foreign companies were some of the largest chemical producers in the world—Germany's BASF, Samsung from South Korea, and the American firm Archer Daniels Midland.[54] They dwarfed the Chinese applicant as well as the foreign-invested companies that were trying to keep them out of the market. Most importantly, BASF is one of the largest foreign investors in China. The decision in June of 2002 to delay making a final verdict was made just as BASF was set to announce a new multi-billion-dollar joint venture in Jiangsu province. And the final judgement in favor of the foreign producers was issued in late September of 2002, just prior to the 30th anniversary of the establishment of German–Chinese diplomatic relations. Although several sources, including government officials who were involved in the decision, agree that the lobbying of the Minis-

[52] Foreign chemical producers with production facilities in Australia have used a similar strategy. Whitwell, *The Application of Anti-Dumping*, 326–354.

[53] "Lysine Antidumping Case," accessed at Huanzhong Law Firm website (www.huanzhonglaw.com), 1 February 2003; and Interviews #D11, #D17, and #D27.

[54] The accused respondents were a BASF subsidiary in South Korea, a Samsung subsidiary in Indonesia, and Archer-Daniel-Midland's production facility in the United States.

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try of Agriculture on behalf of farmers was the determining factor that resulted in the case being dismissed, BASF's importance to the Chinese economy certainly did not hurt its case and provided the opportunity for a quiet diplomatic gesture.[55]

Although the effect of downstream users was felt in earlier cases, according to government and industry sources, the lysine case was a watershed. Despite the lack of an explicit public-interest provision in China's AD statute, trade officials at that point informally decided that they would follow the European Union's example of carefully weighing the interests of downstream users and consumers before making a decision in all future cases. This practice has angered applicants and their lawyers, both because it violated Chinese law and because it is detrimental to their desire for protection. In defiance of such complaints, considering all sides' preferences has become standard procedure. In fact, to the chagrin of those seeking protection, China's revised AD statute, issued in early 2004, includes a new public interest provision (Article 37), making what was once implicit now explicit.

Conclusions

One of the most ubiquitous phrases spoken by Chinese from all walks of life over the past decade is the admonition for China to "*yu guoji jiegui*," or "get on the international track." Its invocation is a call for China to adopt global best practices in corporate business behavior, economic regulation, foreign policy, the political process, and even personal relationships. And in almost every instance, the implication is that following foreign practice will make Chinese society more efficient, liberal, open, prosperous, and safe. Although this is often the case, many foreign "best practices" do not live up to that image. The global AD code is one such area. Full integration into the global trade system is not equivalent to complete liberalization. Seen in this light, the well-worn popular phrase deserves to be reinterpreted.

The normative bias of individual Chinese is mirrored in the literature about learning in foreign policy.[56] With regard to China, in addition to economic liberalization, research has focused on the transfer of Western corporate governance practices, environmentalism, human rights norms, and liberal arms control regimes.[57] But just as the Chinese have learned about embedded liberalism

[55] Interviews #D43, #D44, #D45, #D48, and #D50. BASF, through its German headquarters or overseas subsidiaries, has been a respondent in at least seven other dumping cases in China. They have either been cleared of the charges or penalized with relatively low tariffs.

[56] Jack S. Levy, "Learning and Foreign Policy: Sweeping a Conceptual Minefield," *International Organization* 48 (Spring 1994): 279–312.

[57] Economy and Oksenberg, *China Joins the World*; Elizabeth Economy, "The Impact of International Regimes on Chinese Foreign Policy-Making: Broadening Perspectives and Policies . . . But Only to a Point" in Lampton, ed., *The Making of Chinese Foreign and Security Policy*, 230–253; Alastair Iain Johnston, "Learning Versus Adaptation: Explaining Change in Chinese Arms Control Policy in the 1980s and 1990s," *China Journal* 35 (January 1996): 27–61; and Doug Guthrie, *Dragon in a Three-Piece Suit: The Emergence of Capitalism in China* (Princeton, NJ: Princeton University Press, 1999).

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and a new style of protectionism rooted in the principle of fairness and dressed in the garb of the rule of law and complicated technical calculations, so too have they been exposed to, internalized, and drawn upon foreign behaviors that contradict "reformist" tendencies in other areas. The Chinese have learned about cartels as a tool to prop up prices, about a sustainable development paradigm that stresses protecting the environment only in the broader context of promoting rapid growth, and about the legitimacy of possessing and using nuclear weapons in certain contexts.[58] The learning of such behaviors may not represent a complete break with their own past, but the education has provided new vocabulary, rationales, tools, and procedures that indicate an important evolution in Chinese policies. There is every reason to believe that China's experience of learning both "good" and "bad" norms from the world's dominant powers is commonplace. The spread of antidumping regimes is just one example among many.[59]

Despite such learning, trade disputes are not always resolved to the satisfaction of the protectionist side. Antidumping is not an exception to the rule, but an indicator of the common involvement of business in the policy process that results in maintaining openness. China also has had difficulty utilizing other WTO-authorized protective tactics for the same reasons. To give just one example, in March of 2002, the U.S. government adopted "safeguard" duties against a supposed glut of foreign steel that it claimed was injuring U.S. producers. At the behest of domestic steel manufacturers, China joined other steel exporters in challenging the U.S. action before the WTO, and it invoked its own safeguard measures (quotas and duties) against foreign steel, claiming that the U.S. tariffs had led others to suddenly sell their steel to China.[60] Before long, though, Chinese steel importers and large downstream users in the automobile, oil, and consumer appliance sectors complained loudly about shortages in critical types of steel and rising costs. In a dramatic September 2002 public hearing, lawyers for the Chinese oil drilling industry claimed that their clients had to buy imported equipment because the domestic machinery they had previously used had led to the deaths of several workers. As a result of public and private complaints, the government drastically reduced the number of products against which the measures applied.[61] Although there are undoubtedly some protec-

[58] Scott Kennedy, "The Price of Competition: Pricing Policies and the Struggle to Define China's Economic System," *China Journal* 49 (January 2003): 1–30; and Abigail R. Jahiel, "The Neo-Liberal Paradigm and the Construction of Knowledge: The Shaping of the Chinese State's Environmental Concerns around Accession into the WTO," paper presented at the International Studies Association Annual Convention, Portland, Oregon, 1 March 2003.

[59] Lindsey and Ikenson, *Antidumping Exposed*; Joseph S. Nye, Jr., "Nuclear Learning and U.S.–Soviet Security Regimes," *International Organization* 41 (Summer 1987): 371–402.

[60] In response to the U.S. action, China's trade minister, Shi Guangsheng, said that China also "has to learn to protect its own industries." The head of one large state-owned enterprise echoed Shi, saying, "We're studying America. If you do things that way (use safeguards, anti-dumping and technical standards as barriers to trade), then we can too." Interviews #D2, #D8, #D10, and #D24. Michael Dorgan, "China Already Flexing Its Muscle in WTO," *Knight-Ridder Tribune Business News*, 13 March 2002, accessed at the Factiva database (www.factiva.com), 2 February 2003.

[61] Patrick M. Norton and Kermit W. Almstedt, "China Invokes the WTO 'Escape Clause,'" *O'Melveny & Myers LLP Research Report*, May 2003; Interviews #D17, #D42, #D46, and #D51.

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tionist success stories in China and elsewhere, the existence of counter liberal domestic interests means that such outcomes are far from preordained.

Although political elites and the bureaucracy may be central to the initiation of liberalization policies that may have originally been unpopular or for which there was no obvious domestic constituency, the unfolding of liberal reforms generates the emergence of industrial interests favoring the continuation and expansion of such policies.[62] In antidumping cases, importers of inexpensive products or of high-quality products not easily substituted by domestic producers and their downstream customers compose a critical coalition to keep trade flowing. One might hold that business influence is due to antidumping rules that create an institutionalized path for industries to have a voice. Yet in the Chinese case, downstream producers opposing applications first overrode the formal rules that guide investigators to ignore their interests, and then, because of their lobbying, forced officials to re-define how they adjudicate cases. Institutions may structure opportunities for influence, but they likewise may be the product of industry influence.

In sum, the more economically important and politically powerful proopenness interests are, the more porous protectionism becomes. The global antidumping regime offers a valuable opportunity for analysts to measure the influence of competing interests. Although countries' antidumping statutes are increasingly similar, as Tables 3 and 4 show, applicant success rates and average tariff penalties vary widely. A productive next step in the research agenda would be to engage in a carefully structured comparison of cases involving several countries in order to further explain why protectionist efforts—and the liberal response—are more successful in some contexts than in others. The recent experience of China suggests that even if the comparison involves highly authoritarian regimes, non-state actors favoring liberalism will likely be a central part of the story in countries with diverse political institutions.*

[62] On how early state-led efforts to promote development in East and Southeast Asia resulted in the growth of firms that subsequently became politically active and advocated policies contrary to original state preferences, see Andrew MacIntyre, ed., *Business and Government in Industrialising Asia* (Ithaca, NY: Cornell University Press, 1994).

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APPENDIX

The State of China's Antidumping Cases (as of 1 March 2005)

Case	*Product*	*Foreign Respondents (Firms From)*	*Date Case Initiated*	*Preliminary Determination (Date, Tariff Rates)*	*Final Determination (Date, Tariff Rates)*	*Winner*
1	Newsprint	Canada, ROK, US	11/10/97	7/09/98, margin n/a	6/03/99, 9–78%	China
2	Silicon steel	Russia	3/12/99	12/30/99, 11–73%	9/11/00, 0–62%. 1 firm no margin	Both sides
3	Polyester film	ROK	3/16/99	12/29/99, margin n/a	8/25/00, 13–46%	China
4	Stainless steel	Japan, ROK	6/17/99	4/13/00, 4–75	12/15/00, 7 firms price undertaking; 12/18/00, 17–58%. Exemptions given to other firms.	Both sides
5	Acrylates	Japan, US, Germany	12/10/99	11/23/00, 24–71%	6/9/01, 31–69%. Not on Germany	Both sides
6	Methylene chloride	ROK, UK, US, Netherlands, France, Germany	12/20/00	8/16/01, 7–75%	6/20/02, 4–66%. Not on France	Both sides
7	Polystyrene	ROK, Japan, Thailand	2/09/01	12/06/01, case dismissed (dump, no injury)	—	Foreigners
8	Lysine	US, ROK, Indonesia	6/19/01	9/30/02, case dismissed (dump, no injury)	—	Foreigners
9	Polyester short stable fibers	ROK	8/03/01	10/22/02, 4–48%	2/03/03, 2–48%	China
10	Polyester strips (PET chips)	ROK	8/03/01	10/29/02, 6–52%	2/03/03, 5–52%	China
11	Propenoic acid ester	ROK, Malaysia, Singapore, Indonesia	10/10/01	12/5/02, 11–49%	4/11/03, 2–49%	China
12	Caprolactam (CPL)	Japan, Belgium, Germany, Netherlands, Russia	12/07/01	1/07/03, 5–28%	6/09/03, 5–28%	China

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Case	Product	Foreign Respondents (Firms From)	Date Case Initiated	Preliminary Determination (Date, Tariff Rates)	Final Determination (Date, Tariff Rates)	Winner
			China Joins WTO (11 December 2001)			
13	Coated art paper	ROK, Japan, US, Finland	2/06/02	11/26/02, 5.58–71.02%	8/07/03, 4–71%. Not on US, Finland	Both sides
14	Catechol	European Union	3/01/02	11/04/02, 50–88%	8/28/03 20–79%	China
15	Phthalic anhydride	India, Japan, ROK	3/06/02	1/07/03, 14–66%	9/03/03, 0–66%	China
16	Styrene-butadiene rubber	Russia, ROK, Japan	3/15/02	4/16/03, 0–46%	9/11/03, 0–38%	China
17	Cold-rolled steel coil, strips	Russia, ROK, Ukraine, Kazakhstan, Taiwan	3/22/02	5/20/03, 8–55%	9/24/03, 0–55%. Duties began 1/14/04, stopped 9/10/04	Both sides
18	Polyvinyl chloride (PVC)	US, ROK, Japan, Russia, Taiwan	3/29/02	5/14/03, 10–115%	9/29/03, 6–84%	China
19	Tuolene diisocyanate (TDI)	Japan, ROK, US	5/22/02	6/11/03, 6–49%	11/22/03, 3–49%	China
20	Phenol	Japan, ROK, US, Taiwan	8/01/02	6/09/03, 7–144%	2/01/04, 3–144%	China
21	Polymeric MDI	Japan, ROK	9/20/02	11/28/03, case dropped by applicant	—	Foreigners
22	Monoethano-lamine, Diethano-lamine	Japan, US, Germany, Iran, Taiwan, Malaysia, Mexico	5/14/03	3/25/04, 9–137%. Not on Germany	11/14/04, 9–74%	Both sides
23	Chloroform	EU, ROK, US, India	5/30/03	4/08/04, 16–96%	11/30/04, 32–96%. 6 firms price undertaking	China
24	Optical fiber	US, Japan, ROK	7/01/03	6/16/04, 7–46%	1/01/05, 7–46%. Not one US firm	Both sides
25	Nylon	Taiwan	10/31/03	8/27/04, 5–29%		
26	Chloroprene rubber	EU, Japan, US	11/10/03	12/01/04, 151%		

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Case	Product	Foreign Respondents (Firms From)	Date Case Initiated	Preliminary Determination (Date, Tariff Rates)	Final Determination (Date, Tariff Rates)	Winner
27	Hydrazine hydrate	Japan, ROK, US, France	12/17/03	8/03/04, 28–184%		
28	Unbleached kraft liner, linerboard	ROK, Taiwan, Thailand, US	3/31/04			
29	Trichloro-ethylene	Japan, Russia	4/16/04	1/7/05, 5–159%		
30	Bisphenol-A	Japan, Russia, Singapore, ROK, Taiwan	5/12/04			
31	Dimethyl cyclosiloxane	US, Japan, UK, Germany	7/16/04			
32	Ethylene-propylene ethylidene (EPDM rubber)	US, ROK, Netherlands	8/10/04			
33	Benzofuranol	Japan, EU, US	8/12/04			
34	Nucleotide food additives	Japan, ROK	11/12/04			
35	Epichloro-hydrin	ROK, Russia, US, Japan	12/28/04			

Sources: Ministry of Commerce, "China Trade Remedy Information" (www.cacs.gov.cn); China's "Semi-Annual Report of Anti-Dumping Actions," submitted to the WTO, 11 September 2002, 14 July 2003, and 3 March 2004, available in WTO Anti-Dumping Database (www.wto.org/english/tratop_e/adp_e/adp_e.htm); Huanzhong Law Firm website (www.huangzhonglaw.com); media reports.

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"Going Bipartisan": Politics by Other Means

PETER TRUBOWITZ
NICOLE MELLOW

I wouldn't be too serious about bipartisanship. It's a great myth that ought to be fostered. And don't bring too damn much scholarship to bear on it. You'll prove it out of existence if you're not careful.

—Secretary of State Dean Acheson[1]

After the 2004 presidential election, George W. Bush stressed the need for more bipartisanship in Washington. In doing so, Bush echoed a widely held view that bipartisanship is inherently less political than partisanship. Indeed, in the mass media, bipartisanship is regularly used as a synonym for "apolitical." "In Washington parlance," writes E. J. Dionne, Jr., "to be bipartisan is to be virtuous, understanding, and open-minded."[2] Bipartisans are thought to be above the electoral strategizing and maneuvering we associate with partisans: bipartisans put principle above electoral self-interest.

In this article, we argue that bipartisanship is every bit as political as partisanship. What differ are the electoral circumstances that give politicians an incentive to "go bipartisan." Briefly, we argue that bipartisanship is best understood as an electoral strategy that politicians use to broaden their appeal to voters outside of their party—to secure the support of so-called middle-of-the-road or swing voters by establishing a record as moderate and independent public servants.

[1] "Oral History Interview with Dean Acheson," 30 June 1971, accessed on the website of the Truman Presidential Library at http://www.trumanlibrary.org/oralhist/acheson.htm, 15 May 2004.

[2] "The Myth of Bipartisanship," July/August 2001, accessed on the website of the *Cigar Aficionado Online* at http://www.cigaraficionado.com/Cigar/CA_Archives/CA_Show_Article/0,2322,1067,00.html, 17 April 2004.

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We develop this argument through an analysis of a century of roll call voting in Congress. We show that bipartisanship is more likely to occur when the national economy is growing, the political parties are competitive nationally, and control of the federal government is divided between the parties. By reducing the risk of electoral retribution from angry partisans, economic growth makes it easier for lawmakers to reach across the aisle. Meanwhile, national party competition boosts the electoral payoff lawmakers can expect from going bipartisan, while divided government enhances the power of party moderates in Congress.

Our approach helps explain not only when bipartisan cooperation on Capitol Hill is likely but also why it is so difficult to sustain. Because the party system is often uncompetitive, economic growth is cyclical, and one-party control is not infrequent, the political incentives for members of Congress to go bipartisan are sporadic and short-lived. The result, as we show below, is an oscillating pattern of bipartisanship and partisanship in legislative voting. Historically, bipartisan surges last only a few Congresses before degenerating into more traditional partisan politics.

In the next section, we sketch out our argument about when and why bipartisanship occurs. We then describe the model and method employed to test our predictions. Next, we discuss the result of the data analysis. In this section, we also consider whether our findings about bipartisanship, and the conditions that encourage it, are sensitive to the types of policies over which lawmakers deliberate. We conclude with some general thoughts about what our analysis means for the study of American politics.

Bipartisanship as Political Strategy

For all of the speeches, commentary, and editorials about the need for bipartisanship in American politics, one might expect there to be a large scholarly literature on the topic. When does it occur, and why? In fact, bipartisanship per se has generated little research.[3] One reason for this, as former House Democratic leader Dick Gephardt candidly put it, is that "bipartisanship is abnormal."[4] Partisanship is politics as usual in the United States, and, not surprisingly, it receives the lion's share of scholarly attention in the literature on party politics and congressional voting. We begin with this literature.

[3] But see James M. McCormick and Eugene R. Wittkopf, "Bipartisanship, Partisanship, and Ideology in Congressional–Executive Foreign Policy Relations, 1947–1988," *Journal of Politics* 52 (November 1990): 1077–1100. Also, Melissa Collie, "Universalism and the Parties in the U.S. House of Representatives," *American Journal of Political Science* 32 (November 1988): 865–883. There is also a literature on Congress that treats divergence *and* convergence of leaders and representatives. See William R. Lowry and Charles R. Shipan, "Party Differentiation in Congress," *Legislative Studies Quarterly* 27 (February 2002): 33–60; Bernard Grofman, William Koetzle, and Anthony J. McGann, "Congressional Leadership 1965–96: A New Look at the Extremism versus Centrality Debate," *Legislative Studies Quarterly* 27 (February 2002): 87–105.

[4] Karen Tumulty, "End of Unity," *Time*, 15 October 2001, 75.

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The Lawmaker's Quandary

Most research suggests that the reason Republicans and Democrats do not cooperate more frequently is that they have little incentive to do so. The basic argument runs as follows: because lawmakers need the support of key constituencies (partisans) to get reelected, they tend to avoid taking policy positions that might antagonize party activists, campaign contributors, and core supporters.[5] And because these groups have intense policy preferences, lawmakers are reluctant to reach across the aisle and vote for policy positions that their partisans might deem too "soft" or "weak." Bipartisanship suffers.

We have no quarrel with this as a characterization of politics as usual. Politicians are attentive to the preferences of party activists because those activists are a critical source of votes, volunteers, and financing. Still, we know that there are times when elected officials do not behave as the model predicts: lawmakers do not always vote along party lines. Sometimes partisan politics give way to bipartisan dealings, and majorities of Democrats and Republicans vote the same way on issues. Bipartisanship may be abnormal, but it does occur. The challenge is to explain why it occurs at all, and why it never lasts.

We are particularly concerned with the *political conditions* that give rise to bipartisanship. In our view, lawmakers always face a choice between cooperation and confrontation, that is, between being more bipartisan or partisan. That choice, we argue, depends a good deal on what lawmakers think bipartisanship can do for them at the ballot box. In the standard partisan model, the answer is not very much. This is because lawmakers in that model worry mostly, if not exclusively, about securing the support of their partisans. The great unspoken fear is political retribution: that alienated partisans will punish them by withholding votes or support if they do not toe the party line.

Compromising partisan interests can be costly. But as Richard Fenno, Morris P. Fiorina, Lawrence R. Jacobs and Robert Y. Shapiro, and others have pointed out, politicians must balance the risk of political retribution by partisans against a second worry: alienating swing or centrist voters.[6] Under some conditions, centrists' decision to withhold support can be just as damaging as party line voters'. In the 1980s, for example, the failure of Republicans to re-

[5] John H. Aldrich, *Why Parties? The Origin and Transformation of Political Parties in America* (Chicago, IL: University of Chicago Press, 1995); Gary W. Cox and Matthew D. McCubbins, *Legislative Leviathan* (Berkeley: University of California Press, 1993); Richard Fenno, *Home Style* (Boston, MA: Little, Brown, 1978); Morris P. Fiorina, *Representatives, Roll Calls, and Constituencies* (Lexington, MA: Lexington Books, 1974); Benjamin Ginsberg, "Elections and Public Policy," *American Political Science Review* 70 (March 1976): 41–49; John Kingdon, *Congressmen's Voting Decisions*, 3rd ed. (Ann Arbor: University of Michigan Press, 1989); Keith Poole and Howard Rosenthal, *Congress: A Political-Economic History of Roll Call Voting* (New York: Oxford University Press, 1997); David Rohde, *Parties and Leaders in the Postreform House* (Chicago, IL: University of Chicago Press, 1991).

[6] Fenno, *Home Style*; Fiorina, *Representatives, Roll Calls, and Constituencies*; Lawrence R. Jacobs and Robert Y. Shapiro, *Politicians Don't Pander: Political Manipulation and the Loss of Democratic Responsiveness* (Chicago, IL: University of Chicago Press, 2000).

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spond to independent and disaffected Democrats on a number of major issues resulted in Democratic gains in 1982, 1984, and 1986, stymieing Republican efforts to build on Ronald Reagan's 1980 victory.[7]

We believe that the more lawmakers worry about winning the swing vote, the more actively they will cultivate images of moderation and nonpartisanship. This is because swing and independent voters tend either to be less politically opinionated than partisans or to be less favorably disposed to parties in general.[8] Winning these voters over means establishing a reputation for independence and nonideological position taking.

This independence can be signaled in different ways. For example, during his tenure, President Bill Clinton promoted a number of typically Republican issues, including welfare reform and free trade, and ultimately worked with a Republican Congress to secure the passage of legislation on these issues. Seeking to appear similarly middle-of-the-road, Republican presidential candidate George W. Bush campaigned in 2000 as a "compassionate conservative." In Congress, Republicans have recently curried credit for expanding Medicare, one of the foundational Democratic programs of the Great Society. Sponsoring legislation associated with the opposition and voting with members of the opposing party are avenues by which lawmakers can claim independence from their own party and court swing voters. It is this latter tactic and the specific circumstances that give rise to it that interest us here.

"Going Bipartisan": Three Scenarios

Our first claim about the conditions that favor bipartisanship has to do with the intensity of partisan preferences. It is generally assumed that the pressure partisans exert on lawmakers is a constant. We think it more realistic to consider such pressure a variable. We can envision conditions under which partisans might feel less (or more) strongly about their policy preferences. In the area of the economy, for example, existing literature suggests that good economic times may reduce the pressure on lawmakers to define issues in strictly partisan terms.[9] Because a strong economy is typically associated with positive

[7] Jacobs and Shapiro, *Politicians Don't Pander.*

[8] On the first, see Angus Campbell, Philip E. Converse, Warren E. Miller, and Donald E. Stokes, *The American Voter* (Chicago, IL: University of Chicago Press, 1960). On the second, see Martin P. Wattenberg, *The Decline of American Political Parties: 1952–1994* (Cambridge, MA: Harvard University Press, 1996).

[9] There is a well-established literature on the relationship between changes in general economic conditions and political outcomes, including incumbents' political fortunes, party policies, and politicians' strategies. On the relationship between the economy and electoral fortunes, see Robert S. Erikson, "Economic Conditions and the Presidential Vote," *American Political Science Review* 83 (June 1989): 567–573; Edward R. Tufte, *Political Control of the Economy* (Princeton, NJ: Princeton University Press, 1978); Donald Kinder and D. Roderick Kiewiet, "Economic Discontent and Political Behavior: The Role of Personal Grievances and Collective Economic Judgments in Congressional Voting," *American Journal of Political Science* 23 (August 1979): 495–517. For an account that focuses on economics and the class bases of the two parties, see Douglas Hibbs, "Political Parties and Macroeconomic

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evaluations of those in elected office, officeholders have less incentive to use public policy as a wedge with which to divide and polarize social groups. Another way to put it is that good times make positive-sum politics (bipartisanship) possible because partisan pressures on lawmakers ease with rising personal incomes and expanding federal coffers.

Conversely, in hard times, when national resources dwindle, partisans are more acutely aware of their interests.[10] Questions about how wealth is distributed and what, if any, responsibility government has to redistribute income invariably come to the fore. Pressure groups agitate to protect their interests, and there is heightened awareness of socioeconomic differences, including class differences. Democratic lawmakers become more sensitive to the demands of labor; Republicans, to pressure from big business.

Some economic conditions are thus more permissive of bipartisanship than others. We contend that electoral pressures militate against bipartisanship when the economy is down. During hard economic times, lawmakers will be under pressure to advocate positions with strong partisan resonance. They will be less preoccupied with appealing to swing voters and more concerned about mollifying their political base. By contrast, when divisive economic policy choices are not so salient, as when the economy is expanding, lawmakers can devote more time and energy to reaching out to swing voters and independents and broadening their political base. Increased bipartisanship is the result.

Economic growth is one factor that makes centrist politics possible. The type of electoral competition that politicians face can be another. As Anthony Downs argued fifty years ago, competition for votes sends parties in a two-party system toward the center (that is, toward the median voter).[11] This has been amply demonstrated in the real world of politics, up to and including actions taken by the current administration.[12] Yet this, too, is variable and depends in large part on the particular electoral landscape confronting lawmakers in any given election cycle.

Students of party conflict have noted that when the two major parties have hailed from different regions of the country, conflict between them has historically increased. Rather than converge toward the median voter, the parties in

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Policy," *American Political Science Review* 71 (December 1977): 1467–1487. See also James Sundquist, *Dynamics of the Party System: Alignment and Realignment of Political Parties in the United States* (Washington DC: Brookings Institution, 1983). Others have focused on the strategic calculations that politicians make in response to economic conditions and their implications for their parties. See Gary Jacobson and Samuel Kernell, *Strategy and Choice in Congressional Elections* (New Haven, CT: Yale University Press, 1981). For an account that examines the effects of economic conditions on party conflict specifically (but which argues that isolated economic problems bring the parties together), see John Coleman, "The Decline and Resurgence of Congressional Party Conflict," *Journal of Politics* 59 (February 1997): 165–184.

[10] Sundquist, *Dynamics of the Party System.*

[11] Anthony Downs, *An Economic Theory of Democracy* (New York: Harper Collins, 1957).

[12] "Bush's 50.1% Solution," *Business Week*, 17 September 2001, 60.

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these times have polarized.[13] The reason for this, as V. O. Key observed in his seminal treatment of Southern politics, is that when one party dominates a region, primaries are the only elections that matter.[14] This increases the value of partisans and drives the parties to their extremes. The advice of Richard Nixon is instructive here. In 1996, Nixon counseled presidential hopeful Bob Dole to "run to the right in the primary and then run to the middle in the general election."[15] This is sound strategy, particularly in a presidential election, which is national in scope. But if there is no viable competition from the other party in the general election, then there is no need to run back to the center. Further reducing the incentive to cooperate is that when the parties represent different regions, their future success is predicated in part on the extent to which they can secure national resources for their respective regional constituents; because this is typically zero-sum, bipartisanship is unlikely.[16]

All of this is to argue that the configuration of national electoral forces makes the tendency for parties to converge toward the center a variable construct. When the parties are competitive nationally, there are multiple incentives for them to cooperate and bipartisanship will flourish. By contrast, when the parties are regionally polarized, lawmakers have more incentive to tailor their policy stances (and voting records) to their most partisan bases. Bipartisanship will suffer.

So far we have stressed how conditions outside Washington influence politicians' judgments about going bipartisan "inside the beltway." These considerations, we have argued, have to do with how closely lawmakers' feet are held to the fire by their most partisan constituents and the extent to which they need to court centrist opinion to get elected. A third part of the political equation concerns the power that moderate or centrist lawmakers themselves exercise on Capitol Hill. It, too, is variable.

Many things affect the power that moderates wield. One is the party makeup of government. When party control of government is divided, moderates

[13] Samuel C. Patterson and Gregory A. Caldeira, "Party Voting in the United States Congress," *British Journal of Political Science* 18 (January 1988): 111–131; David Brady, Joseph Cooper, and Patricia Hurley, "The Decline of Party in the U.S. House of Representatives, 1887–1986," *Legislative Studies Quarterly* 4 (August 1979): 381–407; Lowry and Shipan, "Party Differentiation," 33–60.

[14] V. O. Key, *Southern Politics in State and Nation* (New York: Vintage Books, 1949).

[15] Interview with Sidney Blumenthal, *Frontline*, 27 June 1996, accessed on the website of the Public Broadcasting Service at http://www.pbs.org/wgbh/pages/frontline/shows/choice/bob/blumenthal1.html, 22 January 2003.

[16] The tendency of redistricting to create safe seats, for both majority and minority parties, also undoubtedly decreases the prospects for bipartisanship, inasmuch as members are free to focus on catering to their traditional partisan supporters and bringing home district pork. See, for example, David Mayhew, "Congressional Representation: Theory and Practice in Drawing Districts" in Nelson W. Polsby, ed., *Reapportionment in the 1970s* (Berkeley: University of California Press, 1971); Edward Tufte, "The Relationship Between Seats and Votes in Two-Party Systems," *American Political Science Review* 67 (June 1973): 540–554.

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have more clout.[17] This is because presidents must reach out to the party in control of Congress if they hope to get items on their legislative agenda passed. For obvious reasons, presidents prefer working with members in the opposition whose issue positions are closest to their own (that is, those least partisan). As a result, moderates find themselves in a position to shape and modify legislation that they consider too partisan and ideological. Conversely, their power ebbs when the president's party controls Congress. Unified party government makes it easier for presidents to put together winning partisan coalitions.

Institutional structures matter. Divided government reduces the number of levers, or tools, available to political leaders to produce the policies they want. If the president's party does not also control Congress, alternative coalitions must be constructed. This is why Harry Truman's Secretary of State, Dean Acheson, called bipartisanship "the oil of national government."[18] He understood that the only way Truman and the Democrats could win the support of a Republican-controlled 80th Congress for their foreign policy agenda was to win the backing of moderate Republicans. Here, too, bipartisanship was politics by other means.

Analysis of Congressional Voting

Although partisanship has been the norm for most of American congressional history, there have been waves of bipartisanship, occurring at intermittent intervals. In the House of Representatives, there were periods in the early 1890s, the 1910s and 1920s, the 1940s, the 1970s, and the late 1990s when Democrats and Republicans voted together with greater frequency than they had in the past. With the exception of the current period, an erosion of partisan cooperation that lasted for several Congresses followed each outbreak of bipartisan-

[17] See Paul J. Quirk and Bruce Nesmith, "Divided Government and Policy-Making: Negotiating the Laws" in Michael Nelson, ed., *The Presidency and the Political System*, 4th ed. (Washington DC: Congressional Quarterly Press, 1995), 550. Quirk and Nesmith point out that, on any given issue, moderates carry the "pivotal votes" necessary for the president to construct a winning coalition. And as they describe, "Divided party control . . . ensures that both liberal and conservative views are influential and that the policies adopted are ideologically moderate. In an important sense, these middle-of-the-road policies are more in tune with the public's wishes than the one-sided outcomes that either party would impose if left to its own devices." Thus, for a president to pass his agenda during divided government, his target audience in Congress will typically be the moderate members with, relative to the party extremes, "middle-of-the-road" views. On the importance of the median voter in Congress, also see Keith Krehbiel, *Information and Legislative Organization* (Ann Arbor: University of Michigan Press, 1992). It should be noted that the alternative argument, that divided government produces partisanship and stalemate, has also been advanced. See, for example, James L. Sundquist, "Needed: A Political Theory for a New Era of Coalition Government in the United States," *Political Science Quarterly* 103 (Winter 1988–1989): 613–635.

[18] Dean Acheson, *Present at the Creation: My Years at the State Department* (New York: W. W. Norton, Inc., 1969).

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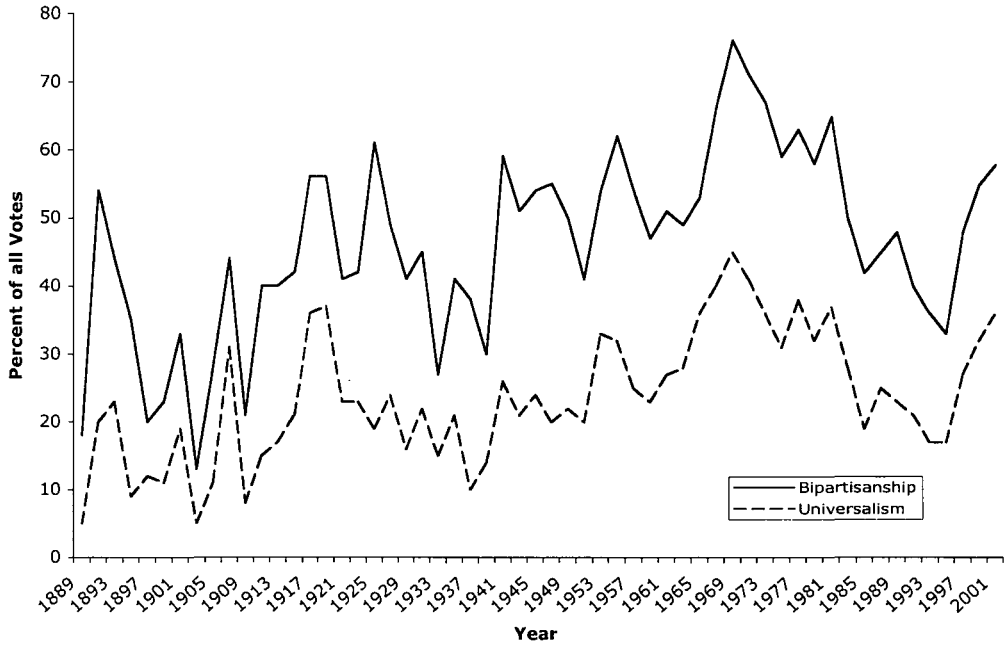
FIGURE 1
Trends in Bipartisanship, 1889–2002, Congresses 51–107.



ship. Figure 1 illustrates this oscillating pattern.[19] As is clear, the trend of rising and falling bipartisanship holds even when using different measures of bipartisanship.

To derive the bipartisanship measure in Figure 1, we calculated the percentage of all votes in a Congress that can be classified as receiving "bipartisan" support. For a particular vote to be identified as bipartisan, it had to meet one of two criteria. A vote was considered to have received bipartisan support if a majority of both parties voted together. Alternatively, a vote was considered bipartisan if majorities of each party opposed each other on a measure, but the difference between their support levels was less than or equal to 20 percent. So, for example, if 65 percent of Democrats supported a measure and 45 percent of Republicans supported that measure, the vote was bipartisan.[20]

This is a fairly generous measure of bipartisanship. It includes all instances in which a significant number of legislators act in a way that is not identifiable as partisan. The same story is told, however, when using the most stringent defi-

[19] Calculated from data generously made available by Keith Poole and Howard Rosenthal, accessed at the website http://voteview.uh.edu, 11 July 2002 and 5 March 2003.

[20] The second criterion has also been referred to as "cross-partisanship." See, for example, Joseph Cooper and Garry Young, "Partisanship, Bipartisanship, and Crosspartisanship in Congress Since the New Deal" in Lawrence Dodd and Bruce Oppenheimer, eds., *Congress Reconsidered*, 6th ed. (Washington DC: Congressional Quarterly Press, 1997).

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nition of bipartisanship: universalism. The second measure in Figure 1, universalism, was calculated by determining the percentage of votes in a Congress in which at least 90 percent of both parties voted together. For obvious reasons, universal voting occurs much less frequently than bipartisan voting. Nonetheless, the pattern of frequency of universal votes mirrors that of the more inclusive bipartisanship measure. This suggests that something systematic is occurring in each of these Congresses. What we see is not just a fluke of measurement.

Examination of Figure 1 reveals a spike in bipartisanship in the early 1890s, followed by generally declining rates that lasted through the turn of the 20th century. A general pattern of increasing cooperation then characterizes the 1910s and 1920s, with lawmakers voting in bipartisan fashion 40 percent of the time or more in each Congress from the 62nd through the 72nd. The beginning of Franklin D. Roosevelt's tenure marks a return to more partisan times. This was fairly short-lived, however. Bipartisanship was restored in the early 1940s, as the United States formally entered World War II.

Over the course of the next twenty-odd years, bipartisanship fell and rose and fell again, oscillating around a mean of 52 percent (the mean for the entire period prior to 1941 was 38 percent). By the mid-1960s, however, bipartisanship was once again on the rise, reaching pinnacle heights by the end of the decade: in the 91st Congress (1969–1971), lawmakers from both parties voted together 76 percent of the time. Bipartisanship then steadily declined, reaching a post-World War II low of 33 percent in the 104th Congress, before beginning to climb again, reaching 58 percent by the end of the 107th Congress (2001–2002).[21]

Although the recent return to bipartisanship is noteworthy, the overall erosion of bipartisan cooperation from the 1970s to the 1990s is equally striking. It constitutes the longest sustained decline in bipartisanship in over one hundred years. This decline also helps to place President George W. Bush's calls for bipartisanship in historical context. Most voters today have seen virtually nothing but the erosion of cooperation during their voting lifetime.

Model Specification

To gain a sense of what accounts for the surges in bipartisanship over time, we developed a multivariate model that tests our primary hypotheses while controlling for the effects of some common alternative explanations. The unit of analysis is a single Congress, and the time period under study is from the 51st through the 107th Congress, 1889 to 2002. We chose a study time frame that was long enough to avoid, or at least reduce, the risk of producing findings that are time-bound.

To test the hypothesis that the intensity of partisan demands is sensitive to economic circumstances, we chose to use two variables representing different

[21] This recent steady decline in bipartisanship is consistent with the growing number of scholarly accounts of the rise in partisanship since the 1970s. See Rohde, *Parties and Leaders*; Coleman "Decline and Resurgence"; Poole and Rosenthal, *Congress*; Aldrich, *Why Parties.*

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economic conditions. Unlike other issues, which come and go, the state of the economy has stayed on the public agenda for the duration of our analysis, and through most of this time, the parties have been associated with different positions on economic management. For these reasons, it is a useful issue area for identifying the conditions that bring the parties together.

In hard economic times, we believe that representatives tend to the interests of their core partisan constituencies: Democrats to labor and Republicans to their business backers. To test this, we included in our model a variable for the rate of unemployment, which serves as a proxy for class demands and the partisan pressures these bring. This variable is the average of the annual unemployment rate in the two years of a given Congress. Because there is a time lapse between the loss of jobs, calculation of the national unemployment rate, and dissemination of that information, we lagged this variable by one congressional cycle.

It could be argued that change in the unemployment rate is a better measure, inasmuch as it controls for changes in the absolute level of unemployment and historical differences in how Americans have perceived and responded to unemployment. However, because we use unemployment as an indicator of class tensions and the pressure that these place on lawmakers, the actual rate of how many people (constituents) are out of jobs at any given time is the most useful measure. It is our contention that, in times like the 1930s, when the unemployment rate "improved" from 24 percent to 19 percent, the pressure on lawmakers to respond to class tensions did not ease.

With a similar logic, we expect that good economic times ease the intensity of partisan demands. In these times, legislators are freer to pursue swing voters, and they can do so by claiming credit for the good economy. Thus, we expect a good economy to produce bipartisanship. To capture this effect, the model includes a measure of the health of the overall economy. Our second independent variable is the national growth rate, or the growth rate of per capita gross national product (GNP) from one Congress to another. Again, we used the average of the annual per capita GNP for the two years of each Congress.[22]

Our second set of variables has to do with the electoral context that legislators face. One measure of the electoral context that we included in our model was the extent of party dominance of national government. Our expectation is that when one party controls both Congress and the presidency, conflict between that party and the "out-party" will flourish. By contrast, when neither party completely controls the machinery of national government, moderates

[22] Here, though, the difference from one Congress to the next was calculated and this number was then divided by the per capita GNP in the first Congress (that is, $(t_2 - t_1)/t_1$). This produces the rate of growth and allows us to control for exponential growth in per capita GNP over time. One difficulty with this measure is that current dollars are used, because chained dollars, annual amounts that are standardized to one selected year, were not available in a consistent fashion for the entire time period. Although taking the rate of growth is a useful corrective, periods of rampant inflation may drive the number up in ways that do not necessarily indicate positive economic news.

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will exercise more power, making bipartisan cooperation more likely. We operationalized this as the existence of divided government, and we expect that its existence will result in greater bipartisanship.

Our final hypothesis concerns the extent to which the parties are nationally competitive (that is, not regionally polarized). The more competitive the parties are nationally, the more weight we expect lawmakers to attach to the general election and securing the center. And because this provides more incentive to establish centrist and nonpartisan voting records on the floor of Congress, bipartisanship will increase. When the party system is regionally polarized, and thus less competitive, we expect that lawmakers will be generally more attentive to the primary stage of competition, and this will reduce bipartisanship.

To operationalize this, we divided the country into two regions: one consisting of the Northeast, Midwest, and Pacific Coast; the other consisting of states in the South, Great Plains, and Mountain West.[23] We then calculated "location quotients" for Democrats as well as for Republicans in both regions. A location quotient is a statistic commonly used by geographers and economists to determine the spatial concentration of an activity; higher numbers represent greater concentration.[24] Finally, we used the location quotients for each party to construct an index measuring the extent to which the two parties are regionally homogeneous (or heterogeneous) or, put differently, the extent to which the party system as a whole is regionally segmented or polarized.[25] Higher levels of polarization mean a less competitive party system.

[23] Our regional classification is roughly consistent with Richard Bensel's well-known "core-periphery" distinction. See his *Sectionalism and American Political Development: 1880–1980* (Madison: University of Wisconsin Press, 1984). The Northeast, Midwest, and Pacific Coast include the following states: CA, CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, OR, PA, RI, VT, WA, and WI. The South, Great Plains, and Mountain West include: AL, AZ, AK, CO, FL, GA, ID, IO, KA, KY, LA, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, SC, SD, TN, TX, UT, VA, and WY. Alaska and Hawaii were left out of the analysis, inasmuch as they were not added to the Union until the 1950s. See also J. Clark Archer and Peter J. Taylor, *Section and Party: A Political Geography of American Presidential Elections, from Andrew Jackson to Ronald Reagan* (New York: John Wiley and Sons, 1981); Fred M. Shelley, J. Clark Archer, Fiona M. Davidson, and Stanley D. Brunn, *Political Geography of the United States* (New York: The Guilford Press, 1997); Harvey S. Perloff and Vera W. Dodds, *How a Region Grows: Area Development in the U.S. Economy: Supplementary Paper No. 17* (New York: Committee for Economic Development, 1963).

[24] The formula as it applies to Republicans (Rs) in the core is: LQ [core] = ((# of R in core/# of R in US)/(# of representatives in core/# of representatives in US)). A number greater than 1 indicates overrepresentation in the region (relative to the national average), and a number less than 1 indicates underrepresentation. This same formula was used to produce LQs for Republicans in the periphery and Democrats in both regions. See Dan Griffith and Carl Amrhein, *Statistical Analysis for Geographers* (Englewood Cliffs, NJ: Prentice-Hall, 1991).

[25] To this end, we calculated the absolute difference between the two regional location quotients for Democrats and, separately, between the two regional location quotients for Republicans. If, within a party, there is no difference between the two regions, the resulting number will be zero, and the party is distributed evenly in both regions; the higher the difference between the two regions (within one party), the more concentrated the party is in one of the regions. Once we had a single number to represent the degree of regional concentration for each party, we added these two numbers together to create an index. The result is a single measure of polarization within the party system. Two highly concentrated parties,

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Finally, our model included two measures designed to control for popular alternative explanations for bipartisanship. The first is a measure of international crisis. Bipartisanship is generally thought to increase in time of crisis, especially when America's servicemen and servicewomen are in harm's way. At such times, the public "rallies around the flag" and looks to Washington for leadership and guidance.[26] Knowing this, lawmakers have every reason to appear to be working with the president on the nation's business, even on issues that do not actually extend beyond the water's edge. Appearing partisan in time of crisis is politically risky. It can open the door to charges of irresponsibility, creating opportunities for potential electoral challengers to exploit.

Our measure for international crisis was the number of instances of the use of U.S. armed forces abroad. To create this variable, we used data on the number of instances per decade to generate something like a moving average. Although this imposes an artificial smoothness on the data, it is also captures, we believe, the prolonged sense of insecurity associated with the many epochs of "cold" and "hot" military confrontation in the past century.

The second control that we introduced into the model is designed to capture, albeit crudely, the effects of institutional rule changes. Prominent scholarship on the House of Representatives has suggested that changes in the rules and norms governing that institution and the two parties that were introduced in the early 1970s had the effect of strengthening parties and led to increased party conflict.[27] To capture this effect, we included in our model a dummy variable that is coded "1" from the 94th Congress (1975–1976) onward and "0" prior to that.[28] We expect these rule changes to result in less bipartisanship.

RESULTS

The six variables in the model were regressed on the measure of bipartisanship illustrated in Figure 1. The results of subjecting the model to ordinary least squares regression are summarized in the Appendix (see Table 1).[29] Overall,

when combined, will result in a system that is polarized along regional lines. Alternatively, the more regional heterogeneity within the parties, the lower the overall polarization (and the more competitive the party system).

[26] John Mueller, *War, Presidents, and Public Opinion* (New York: John Wiley, 1973).

[27] Rohde, *Parties and Leaders.*

[28] Rules changes were instituted in the early 1970s, but we lagged this variable slightly to allow time for the effects of the accumulated changes to be felt.

[29] At more than 100 years, the time period covered in our analysis is long and includes eras that are markedly different in socioeconomic development, institutional arrangements, etc. There is thus the possibility that data in one period of time do not fit our model as well as do data in other time periods. As a check on this, we divided the study period into two temporal halves (dividing the data at the 79th Congress [1945–1946], just after World War II), and we regressed the model on bipartisanship in these two separate periods. All variables were significant in both models at the $p \leq .10$ level, with the exception of divided government (and international crisis, which was again in the wrong direction). This probably reflects the fact that because divided government is largely a post-World War II phenomenon, there is little variance within each individual period. Overall, the model performs better (has a higher adjusted R^2) in the latter time period.

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the model performs well. Fifty-four percent of the variance in bipartisanship can be explained by these six factors.[30] All but one of the variables had the anticipated impact on bipartisanship.[31]

Not surprisingly, the economic environment plays an important role in lawmakers' political strategies. Unemployment has a strong and inverse relationship to bipartisanship. In tough economic times, when the unemployment rate is high and more people are out of work, politicians are under pressure to tend to the interests of their party's base.[32] For example, during the years of the Great Depression, as the unemployment rate rose into the twenties, bipartisanship plummeted. Conversely, however, when the overall economy is growing at a good clip, politicians are freed from these types of partisan concerns. Once class tensions and other factors are controlled, a higher national growth rate is associated with greater levels of bipartisanship. This helps to explain the high levels of bipartisanship in the 1920s and during the "long boom" of the 1950s. It could also explain the reemergence of bipartisanship during Clinton's second term.

Divided government also makes bipartisan cooperation more likely.[33] Moderates have greater clout in these times. And, all else equal, with the electorate sending mixed signals about which party is preferred, both parties stand to profit from their bipartisan efforts. Conversely, when one party dominates nationally, bipartisanship is less likely to occur. Under these circumstances, members of the party in power have little incentive to cooperate with the minority. Not only do moderates have less clout in these times, but also the minority party

[30] Data used to create the variables in the model are from the following sources: Bipartisanship and Regional Polarization: data provided by Keith Poole and Howard Rosenthal at the website http://voteview.uh.edu; Unemployment and GNP Growth Rate: George Thomas Kurian, *Datapedia of the United States, 1790–2005: America Year by Year*, 2nd ed. (Lanham, MD: Bernan, 2001); International Crisis: Harold Stanley and Richard Niemi, *Vital Statistics on American Politics, 2001–2002* (Washington DC: Congressional Quarterly Press, 2001); Party Dominance: Patricia Heidotting Conley, *Presidential Mandates: How Elections Shape the National Agenda* (Chicago, IL: University of Chicago Press, 2001).

[31] The Durbin-Watson d-statistic for the model (1.38) is indecisive; however, results of the Geary test indicate no evidence of autocorrelation at the .05 significance level. Running the model under Prais-Winston improves the d-statistic to 2.0 and produces only one noteworthy change in variable significance (rule change becomes insignificant). Diagnostics also suggest mild multicollinearity between rule change and regional polarization (the correlation between the two variables is 0.739 and the condition index is 12.463, which puts it just into the range of moderate multicollinearity (confidence interval, 10–30).

[32] A 1 percent increase in the unemployment rate leads to a more than 1 percent decrease in the degree of bipartisanship, *ceteris paribus*.

[33] Because party dominance can be expressed in different ways, alternative formulations were also tried in the model, including measures of the size of the House majority; the percentage of seats in the House held by the president's party; and the average of the percentage of seats held in the House and Senate by the president's party. Of these, only the last was significant (at the $p < .10$ level). We speculate that the reason for the difference has to do with the importance attached to party control of an institution: the party with a small majority in the House has the same rule- and agenda-setting privileges of the party with a large majority. Thus party "ownership" of the institutions of government appears to be the more influential factor in determining the parameters of lawmakers' behaviors.

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is truly the "out-party," and it is politically advantageous for its members to be vocal in opposition to the president's agenda. Partisanship increases. This might help explain, for example, the surge in partisanship following Lyndon Johnson's landslide victory in 1964.

At the same time, the nature of the electoral landscape that legislators face also has a significant impact on the likelihood of bipartisanship. As the party system becomes regionally polarized, national party competitiveness decreases and bipartisanship is less likely to occur. In these times, lawmakers tend to pay greater attention to the demands of party activists and their distinctive regional constituents. As a result, partisanship flourishes. We suspect something like this occurred in the 1890s. The country's electoral geography suddenly and dramatically hardened with the election of 1896. With Democrats paying heed to their Southern constituency and Republicans focused on the demands of their Northern and Western base, partisan conflict in Congress quickly escalated. The reverse seems to have happened in the 1960s and 1970s, when the regional foundation of the New Deal party system eroded and the Republicans became more competitive in the South. As both parties competed throughout the country, bipartisanship peaked.[34]

Surprisingly, international crisis did not lead to more bipartisanship.[35] In fact, the relationship is the opposite of what the literature predicts. The greater the country's level of military involvement, the more likely there are to be high levels of partisanship. Given that this variable traces changes from one decade to the next, it is possible that what is captured here is a more general "war weariness" rather than a short-term "rally around the flag" effect. In this reading, once the country is engaged militarily, the opposition party finds electoral advantage, as the conflict wears on, to protesting the policy decisions being made by the president and his party.[36]

Finally, the analysis indicates that the Congressional reforms of the 1970s made bipartisan cooperation more difficult. A number of factors may have been at work. Stronger party leaders in the post-reform House may have made it more difficult for members to vote against their party. At the same time, changes that opened committee meetings to the public and that recorded members' votes in committee and on floor amendments may have made it more difficult to manage and resolve partisan differences. Whatever the reason, prior to the enactment of House reforms, bipartisanship was a bit easier to come by.

[34] During this period, Southern Democrats often voted with Republicans. In the 1940s and 1950s, Eastern Republicans typically crossed party lines to vote with Democrats. Both are expressions of bipartisanship by our definition.

[35] Two alternative measures were tried in the model as well. The first, a measure that more closely resembles a moving average, produced no appreciable differences in the results. The second measure, which measured the percent of the population on active duty, was not significant.

[36] The theory of "war-weariness" has a long tradition. See Geoffrey Blainey's discussion in *The Causes of War*, 3rd ed. (London: Macmillan Press, 1988). In addition, scholars have noted the limited duration of the "rally" effect. See Mueller, *War, Presidents, and Public Opinion.*

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What is unclear from this analysis, however, is whether bipartisanship is sensitive to the kinds of issues that make their way to the House floor. There is a long tradition of research that suggests that lawmakers' voting behavior is policy-sensitive. Foreign policy, in particular, is thought to be more amenable to bipartisan accord than domestic policy.[37] Although the former is supposedly concerned with the national interest (and is thus above politics), the latter policy arena is generally understood to be riven with ideological and interest conflicts. We turn to this issue now.

Controlling for Policy: Foreign versus Domestic Policy

It is often said that in America, "politics stop at the water's edge." Recent experience, such as the terrorist attack of September 11, suggests that external threat does indeed breed a level of national accord that is typically absent in domestic affairs. If the conventional wisdom is correct, perhaps the surges of bipartisanship that we've documented thus far are simply masking a phenomenon exclusive to the domain of foreign policy. Although votes on foreign policy are typically a minority of all votes, it may be the case that bipartisanship is the norm on those votes, whereas domestic legislation is responsible for the bulk of the country's partisan wrangling. Surges in overall bipartisanship, then, may reflect periods during which wars, or foreign affairs more generally, have dominated the political agenda.

Figure 2, which illustrates the separate trends in bipartisanship for foreign and domestic policy, seems to provide some support for this.[38] Throughout the twentieth century, foreign policy has garnered greater levels of bipartisan support than has domestic policy. This is particularly true from World War II to Vietnam: the gap between domestic policy and foreign policy bipartisanship is

[37] Aaron Wildavsky laid out the core argument for this in "The Two Presidencies," in which he argued that presidents enjoyed greater deference from members of Congress on matters of foreign policy than of domestic policy both because they possess an information advantage and because representatives tend to be more interested in domestic affairs. See Aaron Wildavsky, "The Two Presidencies," *Trans-Action* 4 (November 1966): 7–14. Later empirical studies provided mixed results for this thesis, and Wildavsky himself has since suggested that the findings may have been time-bound. See Steven A. Shull, ed., *The Two Presidencies: A Quarter Century Assessment* (Chicago, IL: Nelson-Hall, 1991). Also see Richard Fleisher and Jon R. Bond, *Polarized Politics: Congress and the President in a Partisan Era* (Washington, DC: Congressional Quarterly Press, 2000). Others have developed the argument by focusing on the consensus that existed during the Cold War and prior to Vietnam on the authority of the president to exercise American power abroad. See, for example, I. M. Destler, Leslie H. Gelb, and Anthony Lake, *Our Own Worst Enemy* (New York: Simon and Schuster, 1984). Also David W. Rohde, "Partisanship, Leadership and Congressional Assertiveness in Foreign and Defense Policy" in David A. Deese, ed., *The New Politics of American Foreign Policy* (New York: St. Martin's Press, 1994).

[38] Votes were labeled as foreign or domestic using the issue categorization schema of Aage Clausen, as employed by Keith Poole and Howard Rosenthal in their data. Foreign and defense policy votes constitute the first category, whereas domestic policy includes votes on the broadly defined categories of government management, social welfare, agriculture, and civil liberties.

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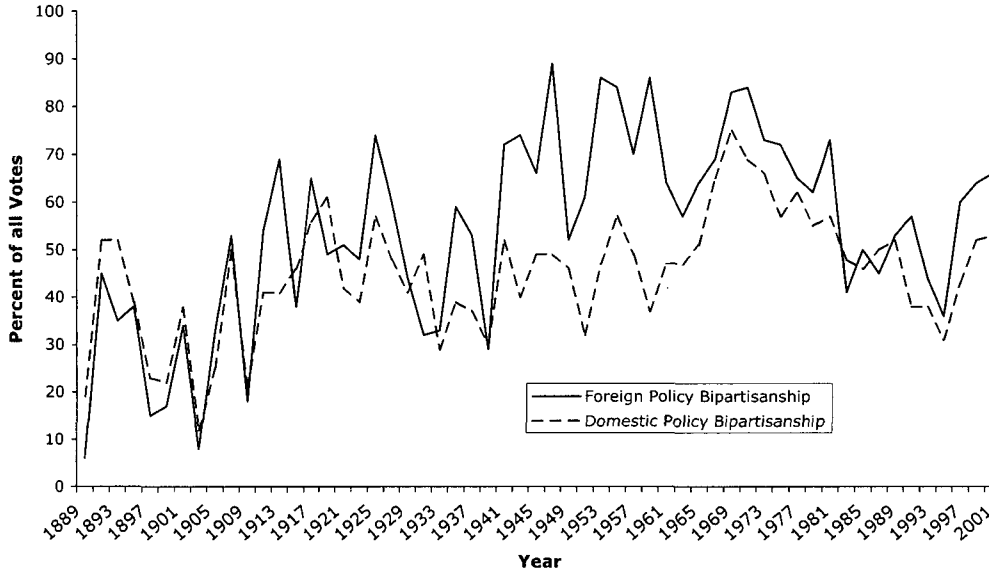
FIGURE 2
Trends in Foreign and Domestic Policy Bipartisanship, 1889–2002, Congresses 51–107.



most pronounced between the 77th (1941–1942) Congress and the 90th (1967–1968) Congress. Foreign policy bipartisanship is highest in these years both overall *and* relative to domestic policy. From the early 1970s onward (after the 90th Congress), the incidence of bipartisanship steadily eroded in both areas of policy making and the bipartisan gap between domestic and foreign policy became smaller. Nonetheless, foreign policy continues to produce higher rates of bipartisanship relative to domestic policy up until the very recent post-Cold War Congresses.

If foreign policy generates greater bipartisanship, then perhaps there are also different forces at work in lawmakers' foreign policy vote calculations. Most of the factors we have considered are typically thought of as domestic-level forces, such as economic conditions and party competitiveness. If our model is accurate, and changes in these conditions affect politicians' willingness to act in a bipartisan manner, then we would expect to observe this relationship in votes over domestic legislation. What better way for a legislator to demonstrate her commitment to her base (or, alternatively, her ability to accommodate the demands of swing voters) than through her actions on votes on the economy, on high-salience ideological issues such as abortion, and on the myriad pork projects so instrumental to maintaining popularity in a geographically defined district?

Yet if the logic of the model is perhaps most apparent on domestic legislation, what happens when we turn to foreign policy? To answer this question, we

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tested our model separately on foreign and domestic policy votes. The results of this are summarized in the Appendix (see Table 2). As is evident, in both policy areas, the model performs decently.[39] Forty percent of the variance in both domestic and foreign policy bipartisanship is explained by these factors.

With respect to domestic policy, all of the factors behave as expected and are significant, again with the exception of international crisis. Greater unemployment results in less bipartisanship as Republicans tend to the demands of business and Democrats to those of labor. Once these constituent effects are controlled, a growing national economy increases the likelihood of bipartisanship as all seek credit for the growth. Electoral configurations have consequences as well. When party control of the levers of government is split (divided government), bipartisanship becomes more attractive. Conversely, in a regionally polarized party system in which the parties dominate in different regions, the importance of primaries and the role of party activists are elevated; bipartisanship under these circumstances is less likely. And, not surprisingly, the adoption of reforms in the House in the 1970s made domestic bipartisanship less likely.

In keeping with the general model, international crisis was again in the opposite direction of what we would expect. Following the speculation in our general analysis, it may be that international crises do affect legislators' calculations on domestic policy position taking and that what happens outside of the country is closely linked to what happens inside the country. Rather than crises generating bipartisanship across the table though, as conflicts wear on, it appears that the opposition party begins to challenge not just the foreign policy of the majority party but that party's domestic legislation as well. Partisanship increases. This, of course, is suggestive of the contemporary political scene. As support for the war in Iraq has faded, Democrats have stepped up criticisms both of President Bush's war-making decisions and of what they claim is his inadequate response to domestic economic problems. Already there are signs of this in vote patterns.[40]

That the model generally holds up in domestic policy is to be expected. Less expected and perhaps more interesting, the model performs virtually as well in explaining foreign policy bipartisanship. Here, too, international crises, contrary to our original expectations, tend to depress foreign policy bipartisanship. So does unemployment, whereas national economic growth leads to greater bipartisanship, just as it does in domestic policy.[41] The only additional factor that

[39] The Durbin-Watson d-statistic for the foreign policy model is 1.62, and for the domestic policy model, 1.48, and Geary tests suggest no significant sign of autocorrelation.

[40] John Cochran, "Legislative Season Drawn in Solid Party Lines," *Congressional Quarterly Weekly*, 7 January 2004, 10–11.

[41] The logic of this link is not surprising, given that defense spending has been a large component of the country's overall economic health, particularly in the latter half of the twentieth century. Decisions about military contracts, bases, and overseas involvement have direct implications for workers and businesses throughout the country, and this clearly affects political calculations. See, for example, Alex Mintz and Alexander Hicks, "Military Keynesianism in the United States, 1949–1976," *American Journal of Sociology* 90 (September 1984): 411–417; Ann Markusen, Peter Hall, Scott Campbell, and

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is insignificant in this model is the House rule changes. In contrast to domestic policy, where the rule changes have made bipartisanship harder, they have had no discernible effect on voting over foreign policy.

Electoral context matters, too, in lawmakers' willingness to support a president's foreign policy. When the president's party controls the Congress as well, those in the minority voice their opposition and bipartisanship suffers.[42] The minority's opposition, in all likelihood, appeals to the staunch partisans who have put them in office in defiance of the rest of the country's turn to the president's party. At the same time, their opposition, because it *is* the minority opinion, is largely symbolic and does not jeopardize the president's foreign policy. This leaves out-party legislators free to vocalize their opposition without risking the electoral (and potentially real) consequences of crippling the president's foreign policy agenda.

When the parties are regionally polarized, foreign policy bipartisanship suffers, all else held equal, inasmuch as parties tend to the activists in their respective regional bases. One reason that activists agitate over foreign policy is that policy decisions in this arena have historically favored one region at the expense of another.[43] In the 1890s, foreign policy decisions benefited the North, while in the 1980s it was the West and South that gained. Because of the uneven consequences of foreign policy decisions, parties that are regional have strong electoral incentive to fight over outcomes.

Thus, even though foreign and domestic policies have generated different degrees of bipartisanship over time, the same basic political logic drives legislators' voting behavior in each area of policy making. The same conditions affect lawmakers' willingness to cooperate on both foreign and domestic affairs, and this suggests that the politics of the two arenas of policy making are not as distinct as we tend to believe. And although bipartisanship is more frequent in foreign policy making, our analysis provides strong evidence that, contrary to popular wisdom, politics do not stop at the water's edge.

Conclusion

Scholars and pundits throughout the nation's history have often bemoaned the absence of bipartisanship in Washington. Many view the lack of such cooperation between the parties as a sign that elected officials' policy judgments are driven more by politics than by substance: by self-interest as opposed to principle. This view of bipartisanship is misleading. Politicians do have principles, but it is politics, not principles, that make bipartisanship possible. Politicians "go

Sabina Deitrick, *The Rise of the Gunbelt: The Military Remapping of Industrial America* (New York: Oxford University Press, 1991).

[42] We hasten to add, though, that as with domestic policy, divided government is significant only at the $p < .10$ level.

[43] Peter Trubowitz, *Defining the National Interest: Conflict and Change in American Foreign Policy* (Chicago, IL: University of Chicago Press, 1998).

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bipartisan" when political circumstances make it electorally profitable for them to reach across the aisle: when they hail from parties that are nationally competitive, when economic conditions are favorable, or when control of national government is divided.

The reality, of course, is that these moments are rare. More often in the past century, the two parties have dominated in different parts of the country, one party has controlled the national government, or economic problems have polarized the nation. These are the times when elected officials tend to their partisan bases, and bipartisanship has suffered. And in such periods, the domestic and international problems that find their way onto the national policy agenda become fodder for partisan strategizing and posturing.

But just as party conflict is driven by electoral politics, so is bipartisan cooperation. Politicians weigh the electoral advantages and disadvantages of appearing nonpartisan. How they make those judgments depends a good deal on how imperative it is for them to reach out to moderate, middle-of-the-road voters and just as importantly, how free they are of partisan pressures to do so. What we have shown is that when electoral incentives to move to the center are strong, and partisan demands to toe the party line weaken, bipartisanship prospers.

Our findings highlight the electoral pressures that produce bipartisanship, but they also shed some light on the policy effects of divided government. Previous work suggests that two-party rule does not reduce legislative productivity: the amount of significant legislation passed in any one year has little, if anything, to do with who controls the two branches.[44] Our findings suggest that one reason this may be true is that the incentives for bipartisan cooperation increase when neither party is dominant. Presidents are forced to the center if they hope to establish a record of accomplishment, and the resulting increase in bipartisan legislation may partially offset the shortfall in partisan output.

The analysis may also help to explain why parties typically do not behave as predicted by the median voter theorem: the national and electoral conditions are just not right most of the time. Lawmakers usually find it more advantageous to cater to their party's base. Yet, understanding the conditions under which bipartisanship has appeared in American political history allows us to specify when we can expect the theorem to hold and when presidents' calls for more cooperation between the White House and Congress are realistic.

How does this square with the contemporary era? To be sure, partisanship in recent decades has been strong, so much so that by the mid-1990s, partisan standoffs had led to the shutdown of government services and a presidential

[44] David R. Mayhew, *Divided We Govern: Party Control, Lawmaking, and Investigations, 1946–1990* (New Haven, CT: Yale University Press, 1991); Keith Krehbiel, *Pivotal Politics* (Chicago, IL: University of Chicago Press, 1998); William Howell, Scott Adler, Charles Cameron, and Charles Riemann, "Divided Government and the Legislative Productivity of Congress: 1945–94," *Legislative Studies Quarterly* 25 (May 2000): 285–312; Sean Q. Kelly, "Divided We Govern? A Reassessment," *Polity* 25 (Spring 1993): 475–495.

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impeachment, not to mention the dispute over the 2000 presidential election outcome. Yet, in the last decade, there has been a turn toward greater bipartisanship in Congress. This makes sense, given the strong economy in the latter half of the 1990s and the extremely close division of government in recent years.

Already, though, there are signs that this bipartisan surge may be tapering off. The parties are becoming increasingly regionally polarized, a trend that continued with the 2004 presidential election. This makes bipartisanship harder to sustain. In addition, the economy remains sluggish and a quick resolution to the war on terrorism is nowhere in sight. If the past is a guide to the future, bipartisanship's prospects would not appear especially bright.

APPENDIX

TABLE 1

Explaining Bipartisanship, 1889–2002

	b (*SE*)
Unemployment rate (lag)	−1.1879***
	(.275)
National growth rate	.3291***
	(.094)
Divided government	.0610**
	(.029)
Regional polarization	−.1162***
	(.032)
International crisis	−.0684***
	(.019)
Institutional rule changes	−.0975*
	(.055)
Constant	.7564***
	(.059)

Adj. R^2: .54.
* $p \leq .10$; ** $p \leq .05$; *** $p \leq .01$.

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TABLE 2

Explaining Bipartisanship over Domestic and Foreign Policy, 1889–2002

	Domestic Policy	*Foreign Policy*
	b (*SE*)	*b* (*SE*)
Unemployment rate (lag)	−.9916***	−1.5114***
	(.295)	(.460)
National growth rate	.1898*	.5224***
	(.101)	(.157)
Divided government	.0553*	.0866*
	(.031)	(.048)
Regional polarization	−.1229***	−.1139**
	(.034)	(.053)
International crisis	−.0428**	−.1044***
	(.020)	(.031)
Institutional rule changes	−.1180**	−.1080
	(.059)	(.092)
Constant	.7192***	.8869***
	(.064)	(.099)

Adj. R^2: .41 for Domestic Policy; Adj. R^2: .40 for Foreign Policy.
* $p \leq .10$; ** $p \leq .05$; *** $p \leq .01$.

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New Insights into the Chechen Conflict

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From Past to Future

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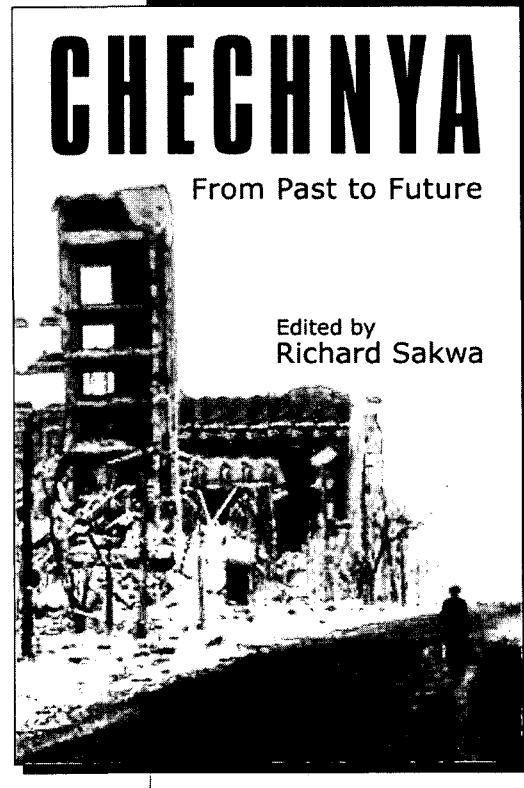

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The EU, Human Rights, and the Russo–Chechen Conflict

TUOMAS FORSBERG
GRAEME P. HERD

The role of the Russo–Chechen conflict in shaping the European Union's (EU) relations with Russia is of interest to analysts and policy makers, both those who assess and evaluate the nature, quality, and evolution of EU–Russian relations and those who wish to gain a better understanding of the EU's Common Foreign and Security Policy (CFSP), and its effectiveness and influence. Russia's human rights abuses in Chechnya and the EU's response to these provide us with a barometer of the EU's ability to shape and influence human rights policy in states with little or no prospect of membership. An analysis of the EU's rhetorical and substantive responses to human rights abuses in Chechnya will reveal the limitations of human rights as a central organizing principle within the CFSP when it is applied to its external relations. This article argues that over the last decade, the EU has sacrificed a coherent and systematic advancement of its normative agenda in favor of strengthening its relations with the Russian Federation, a key strategic partner. The largest member states have driven forward the formulation and implementation of EU policy in ways that have generated short-term political capital for policy makers at the expense of undercutting the role, function, and integrity of key EU institutions over the longer term.

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A cursory glance at EU–Russian relations reveals that periods of tension tend to coincide with surges of violence in the Russo–Chechen conflict.[1] Yet, among the scholars who have studied this issue, there appears little unanimity on Chechnya's importance in influencing EU policies toward Russia, or on the relationship between human rights and the implementation of the CFSP with regard to Russia. Some analysts have noted that Russian human rights abuses in Chechnya are one of the major obstacles to Russia's rapprochement with Europe.[2] Others take a different position, arguing that Russia's relationship with the West and its integration into Western institutions is unrelated to the country's human rights record or the war in Chechnya.[3]

The dearth of research directly examining the role of Chechnya in shaping EU–Russian relations has allowed these two interpretations to appear equally sustainable. The research that does exist on the role of the international community in general shares a critical perspective, arguing that international responses are schizophrenic, inconsistent, and halfhearted. The Russian elite noted the international pressure, but this pressure never emerged as an important factor in determining Russia's Chechen policy.[4]

Because the EU has consistently highlighted the importance of human rights in its external relations, evidenced most recently by Article III-193(1) of the draft EU Constitution, one might reasonably assume that the well-documented human rights violations in Chechnya would have been a source of major concern for the EU. Indeed, Chechnya can be viewed as an important case study of the effectiveness of the EU's CFSP, the role of its human rights policy

[1] On relations between the EU and Russia, see: David Gowan, *How the EU Can Help Russia* (London: Centre for European Reform, 2000); Michael Emerson, *The Elephant and the Bear. The European Union, Russia and the Near Abroad* (Brussels: Centre for European Policy Studies, 2001); Vladimir Baranovsky, *Russia's Attitude Towards the EU: Political Aspects.* Programme on the Northern Dimension of the CFSP, no. 15 (Helsinki: Finnish Institute of International Affairs, 2002); John Pinder and Yuri Shiskov, *The EU and Russia: The Promise of Partnership* (London: The Federal Trust, 2002); Graeme P. Herd, "Russia and the European Union" in Julie Smith and Charles Jenkins, eds., *Through the Paper Curtain: Insiders and Outsiders in the New Europe* (London: RIIA and Blackwell Ltd, 2003), 101–124.

[2] Pavel Baev, "Putin's Western Choice: Too Good to Be True," *European Security* 12 (Spring 2003): 7.

[3] Matthew Evangelista, *The Chechen Wars. Will Russia Go the Way of the Soviet Union?* (Washington DC: The Brookings Institution, 2002), 188.

[4] Svante Cornell, "International Reactions to Massive Human Rights Violations. The Case of Chechnya," *Europe-Asia Studies* 51 (January 1999): 85–100; S. Neil MacFarlane, "What the International Community Can Do to Settle the Conflict" in Lena Jonson and Murad Esenov, eds., *Chechnya: The International Community and the Strategies for Peace and Stability* (Stockholm: The Swedish Institute of International Affairs, 2000); Sarah E. Mendelson, *Explaining the International Community's Response to the War in Chechnya*, program on New Approaches to Russian Security. Policy Memo Series no. 143 (Cambridge: Davis Center for Russian Studies, Harvard University, 2000); Rick Fawn, "Correcting the Incorrigible? Russia's Relations with the West over Chechnya," *Journal of Communist Studies and Transition Politics* 18 (March 2002): 3–20; Rachel Denber, "'Glad to be Deceived': The International Community and Chechnya," *Human Rights Watch World Report 2004*, accessed at www.hrw.org/wr2k4/7.html, 6 June 2005.

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within the CFSP, as well as the proliferation of human rights norms[5] and the effectiveness of international sanctions[6] in general. In short, Chechnya constitutes a key indicator of the EU's ability to act as a "normative power" in its external relations.[7]

There is a well-understood correlation between the prospect of EU membership and the EU's normative power, but many doubt its wider significance. Yet, according to Roy Ginsberg, the EU has been able to exercise a "considerable political impact" on "third parties."[8] However, the EU's ability to propagate the human rights dimension of its political agenda has not been perceived as overly successful. Martine Fouwels, for example, has concluded that the CFSP appears to be a potentially effective but at present insufficiently adequate framework for the promotion and protection of human rights.[9] And Toby King is even more critical, arguing that the EU's response to grave violations of human rights has been minimal and ineffectual, although human rights are supposed to lie at the heart of the CFSP.[10]

Although analysts agree that the EU and the international community in general have failed to change Russia's policy toward Chechnya, there is no real agreement as to why this is the case. In particular, a systematic study offering explanations as to why the EU has proven so weak in projecting its normative agenda in its CFSP has not been forthcoming. This article seeks to achieve two objectives. First, it analyzes the role and function of Chechnya within EU–Russian relations. How profoundly has the argument over the human rights issues in Chechnya affected the relationship between the EU and Russia? Second, the article uses the case of Chechnya to examine the nature of the CFSP.

[5] The proliferation of the utilitarian (regulative), social (constitutive), moral (prescriptive), and narrative (legitimation) aspects of human rights norms is discussed, *inter alia*: Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink, eds., *The Power of Human Rights. International Norms and Domestic Change* (Cambridge: Cambridge University Press, 1999); Margaret Keck and Kathryn Sikkink, *Activists Beyond Borders. Advocacy Networks in International Politics* (Ithaca, NY: Cornell University Press, 1998); Daniel Thomas, *The Helsinki Effect: International Norms, Human Rights and the Demise of Communism* (Princeton, NJ: Princeton University Press, 2001).

[6] Meghan L. O'Sullivan, *Shrewd Sanctions. Economic Statecraft in an Age of Global Terrorism* (Washington DC: Brookings Institution, 2003); David Barnhizer, ed., *Effective Strategies for Protecting Human Rights. Economic Sanctions, Use of National Courts and International Fora and Coercive Power* (Aldershot, Hants., UK: Ashgate, 2001); Daniel W. Drezner, *Sanctions Paradox. Economic Statecraft and International Relations* (Princeton, NJ: Princeton University Press, 1999); Gary Clyde Hufbauer, Jeffrey Schott, and Kimberly Ann Elliott, *Economic Sanctions Reconsidered. History and Current Policy*, 2nd ed. (Washington DC: Institute for International Economics, 1990).

[7] Ian Manners, "Normative Power Europe. A Contradiction in Terms?" *Journal of Common Market Studies* 40 (June 2002): 235–258.

[8] Roy Ginsberg, *The European Union in International Politics. Baptism by Fire* (Boston, MA: Rowman & Littlefield, 2001).

[9] Martine Fouwels, "The European Union's Common Foreign and Security Policy and Human Rights," *Netherlands Quarterly of Human Rights* 15 (1997): 291–324.

[10] Toby King, "Human Rights in European Foreign Policy: Success or Failure for Post-modern Diplomacy," *European Journal of International Law* 10 (1999): 313–337.

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How consistent was the EU in applying its policies? Do the different institutions and member states pool efforts for a common purpose or pull apart, seeking to further their own agendas? Let us first identify the key periods in EU–Russian relations in which human rights violations in Chechnya have become an issue of contention and place these within an analytic framework.

The First Russo–Chechen Campaign

There is no clear consensus among the various scholars and political observers as to the causes of the first Russo–Chechen campaign. It has been depicted as a war of national liberation, a war initiated by criminal bandits, and a clash of civilizations: it was as much a military campaign as it was an information war, and explanations were as varied as they were outlandish.[11] For the Russian Federation, this campaign represented a military failure and a national humiliation, and, for Chechnya, a humanitarian disaster. Although the causes of the war are difficult to determine, what became very evident was the manner in which the campaign was to be fought.

On 11 December 1994, Russian armed forces from the army and Ministry of Interior advanced into Chechnya from three directions, formally initiating the first Russo–Chechen campaign. The aim was to encircle and then capture the capital, Grozny, from Chechen separatists, led by a former Soviet air force general, President Dzhokar Dudayev. The first attempts to seize Grozny ended in a humiliating military failure, and it was captured only in February 1995, after heavy aerial and artillery bombing of the city had rendered a large proportion of it rubble and triggered a mass exodus of refugees to neighboring republics in the North Caucasus. These events in the first months of the war set the tone for the entire first campaign: Russian military inability to fully suppress rebel activity, guerrilla campaigns, broken cease-fires, and the institutionalization of a complex humanitarian crisis.

As the independent media broadcast live video footage of dead, maimed, and captured Russian soldiers, as well as signs of indiscriminate use of force and large numbers of civilian casualties, the gulf between government information and reality grew, and the war became increasingly unpopular. In the face of such coverage, Russian and Western public opinion swung against the war, creating pressure for the EU to respond, which it did—but slowly. The first EU meeting on the issue was held on 17–19 January 1995, more than a month after the hostilities had started. This belated response had already prompted some politicians to declare that the EU was handicapped.

[11] See, for example, Tracey C. German, *Russia's Chechen War* (London and New York: RoutledgeCurzon, 2003); Stasys Knezys and Romanan Sedlickas, *The War in Chechnya* (College Station: Texas A&M University Press, 1999); Anatol Lieven, *Chechnya. Tombstone of Russian Power* (New Haven and London: Yale University Press, 1998); Carlotta Gall and Thomas de Waal, *Chechnya. Calamity in the Caucasus* (New York: New York University Press, 1998).

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Which principles provided guidance in framing the EU's response? The EU had developed its approach to the fundamental issues of statehood, sovereignty, and separatism by relying on the principles of international law and those of the Organization for Security and Cooperation in Europe (OSCE). That is to say, high degrees of self-determination and autonomy within a state were acceptable, even preferable, but where the principles of state sovereignty and separatism were in conflict, the territorial integrity of a state was sacrosanct. This clear-cut approach, however, was not applied in the case of the breakup of the former Yugoslavia, but the principle of the absoluteness of sovereignty was reasserted in the face of the collapse of the Soviet Union. Although the EU did not at first recognize the breakup of the Soviet Union into fifteen independent republics, it did so after Boris Yeltsin had given his blessing to the breakup. The EU's approach to the nature of the distribution of power between the center and the periphery within a newly independent but unstable Russian Federation was, therefore, conditioned by and contingent upon Moscow's acceptance of the process.

Rather than addressing the issue of Chechnya in terms of defining more precisely the extent of Chechnya's legitimate exercise of its right to self-determination, the EU focused on the issue of human rights violations. The EU was not willing to recognize Dudayev's Chechnya as a sovereign state and did not define Russia's supremacy over Chechnya as colonialism. In effect, it appeared that the EU members had reached an implicit consensus that could be formulated as follows: Chechnya could exercise self-determination, but only to the extent that this did not threaten Russia's territorial integrity. Russia's territorial integrity was held sacrosanct, inasmuch as the violent collapse of a nuclear power would threaten the stability and security of Europe and Eurasia. In particular, EU politicians believed that the role of President Yeltsin was indispensable for Russia's democratization process. The implicit logic was that Russia could maintain its territorial integrity, even if this was achieved by gross violations of international treaties and basic human rights through forced disappearances, arbitrary arrests, torture, beatings, and extra-judicial killings of civilians.[12] How gross the violations could be or which rights were to be prioritized was never even implicitly discussed.

This ambiguous formula shaped the framework through which the EU addressed the issue of Chechnya within the evolving EU–Russia relationship. The EU argued that Russia had committed itself to uphold international norms, norms that could be promoted and safeguarded by the international community. The violation of these norms by Russian military and security forces in Chechnya undermined international stability, and this demanded a response by the EU and the rest of the international community. German Defense Minister

[12] The scale and types of human rights violations are documented by a number of organizations and commentators, not least Human Rights Watch, Amnesty International, International Helsinki Federation for Human Rights, and the UN Human Rights Commission.

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Volker Rühe, one of the most notable EU politicians to focus on the Chechen question, argued that the EU's credibility in its relations with Russia depended on its ability to speak up unambiguously when treaties and norms were violated.[13] Insofar as human rights abuses occurred in Chechnya, the EU would not consider the war in Chechnya a Russian internal affair. The EU insisted that both Russia and Chechnya adhere to four conditions: first, OSCE presence in Chechnya; second, access to humanitarian aid; third, a cease-fire; and finally, the search for a political solution that would respect the territorial integrity of Russia.

The EU gradually sharpened the language, reminding Russia that although the goal was partnership, the EU would remain vigilant and reserve the right to consider other options. There was, nevertheless, very little support within the EU for sanctions; they would prove ineffective and send the wrong signal to Moscow.[14] The EU's strongest demonstration of its determination to enforce its normative agenda was the decision to postpone the ratification of the Partnership and Cooperation Agreement (PCA) that it had signed with Russia in June of 1994.[15] The decision was still more symbolic than real, because bilateral programs remained in force and the Technical Aid Commonwealth of Independent States (TACIS) funds were not frozen. In May of 1995, the European Commission concluded that although Russia did not fulfill all the PCA criteria, there was nonetheless some progress related to its Chechen policy, which allowed the EU to sign the interim treaty in July 1995. Indeed, the Commission recommended normalization of relations because the EU had to find a balance between expressing human rights concerns and the need to foster political reform in Russia.[16]

As the conflict continued through 1995 and into 1996, the EU criticized human rights violations on both sides of the conflict. The atrocities that were carried out by Russian troops in the Chechen village of Samshki were condemned in the strongest terms, while the hostage taking of Russian civilians in a hospital in Budennovsk, a town in the neighboring Stavropol Territory, and the siege of Pervomaiskoe in 1996 by Chechen fighters were condemned in very firm terms. Because a military solution was untenable, the EU concluded that it had to continue to consistently promote political negotiations.

The cessation of hostilities in 1996, formally marked by the signing of the Russo–Chechen Khasavyurt Accords, was welcomed by the EU as "steps to-

[13] Volker Rühe, "Europa und Amerika–Neue Partnerschaft für die Zukunft." Speech at the 32. Münchner Konferenz für Sicherheitspolitik, Munich, 4 February 1995.

[14] "Kaum jemand in Bonn will Sanktionen gegen Russland," *Frankfurter Allgemeine Zeitung*, 9 January 1995.

[15] David Allen, "EPC/CFSP, the Soviet Union, and the Former Soviet Republics: Do the Twelve Have a Coherent Policy?" in Elfriede Regelsberger, Wolfgang Wessels, and Geoffrey Edwards, eds., *Foreign Policy of the European Union. From EPC to CFSP and Beyond* (Boulder and London: Lynne Rienner, 1997), 219–235.

[16] Christer Pursiainen, *Venäjän päätöksenteko ja Euroopan unionin vaikutusmahdollisuudet: Tshetshenian tapaus* [Russia's Decision-making and the EU's Chances to Influence: The Case of Chechnya]. Foreign Policy Challenges no. 12 (Helsinki: The Finnish Institute of International Affairs, 1996), 21.

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wards reconciliation, political and economic cooperation and lasting peace in Chechnya." EU–Russian rapprochement followed, with Russia's admission to the Council of Europe, as well as with the EU's ratification of the PCA and its enactment in December 1997. The EU also supported presidential and parliamentary elections in Chechnya, which were perceived to represent "the free will of the voters and [to] form a legitimate base for the new authorities."[17] The uneasy peace between Moscow and Grozny did not prompt the EU to support Chechen independence or to criticize Russia for not cooperating with the Chechens—rather the opposite. The EU supported the Russian authorities and increasingly aimed criticism at the Chechens as President Aslan Maskhadov appeared unable or unwilling to halt public executions or prevent the kidnappings of humanitarian aid staff in the face of the independent warlords who held power locally.[18]

This positive trend in EU–Russian relations was underpinned by the Cologne Summit in June of 1999, when the EU unveiled the Common Strategy of the European Union on Russia, with the aim of promoting "a stable, democratic and prosperous Russia, firmly anchored in a united Europe, free of dividing lines."[19] As a reply, Russia then elaborated the Medium-term Strategy for the Development of Relations between the Russian Federation and the European Union (2000–2010).[20] However, the Russian strategy paper emphasized common interests above shared values. Indeed, the rhetoric of EU–Russian closer cooperation, mutual understanding, and balance of interests was to be severely tested by the start of the second Russo–Chechen campaign.

The Second Russo–Chechen Campaign

This campaign began in August 1999, triggered by the proliferation of the conflict outside of Chechnya's borders, when Chechen field commanders led military incursions into the neighboring Republic of Dagestan and a series of bomb explosions targeting civilians occurred in major Russian cities, including Moscow.[21] Unlike the first campaign, the cause was evident: Chechnya had failed to establish internal sovereignty, allowing independent warlords to export violence. For this reason, there was greater consensus within the Russian media and society on the necessity of reasserting central control over this recalcitrant republic. The Russian government proved extremely effective in building and consolidating a psychological environment within the Russian populace in fa-

[17] Presidency Statement 31 January 1997, accessed at http://europa.eu.int/abc/doc/off/bull/en/9701/p103017.htm, 6 June 2005.

[18] Statement on Situation in Chechnya 23 September 1997. European Foreign Policy Bulletin Database.

[19] "A Common Strategy of the European Union of 4 June 1999," *Official Journal of the European Communities*, 24 June 1999, L 1571/1.

[20] *Diplomatichesky Vestnik*, November 1999: 20–28.

[21] See, for example, German, *Russia's Chechen War;* Anne Nivat, *Chienne de Guerre. A Woman Reporter behind the Lines in Chechnya* (New York: Public Affairs, 2001); Anna Politkovskaya, *A Dirty War. A Russian Reporter in Chechnya* (London: Harvill Press, 2001); Anna Politkovskaya, *A Small*

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vor of the campaign.[22] Once the campaign had begun, Prime Minister, and later (from May 2000), President Vladimir Putin was able to shape the coverage of the war by exerting effective pressure on the media oligarchs in Moscow and by imposing an information blockade around Chechnya that only a very few journalists and human rights organizations were able to breach.

Before the renewal of the Chechen conflict, the EU's approach to the fundamental issues of statehood, sovereignty, and separatism were again tested in the former Yugoslavia. President Slobodan Milosevic's determination to uphold the territorial integrity of Serbia-Montenegro and to prevent the secession of Kosovo through the application of military force and the arbitrary use of violence by the police forces (including ethnic cleansing) was not supported by the EU states. While history repeated itself in the Balkans, Moscow was again held to a different standard: the EU insisted that the territorial integrity of the Russian Federation was sacrosanct. The self-exculpatory reply to the criticism of double standards offered by Javier Solana, the High Representative for the CFSP, was simply that the same criteria cannot be applied to different crises: Serbia is not Russia and Chechnya is not Kosovo.[23] It was once again within this ill-defined and implicit framework that the EU began to readdress the issue of the Russo–Chechen conflict.

Indeed, the EU responded by acknowledging Russia's need to restore order and maintain its territorial integrity. The EU Parliament passed a resolution on the armed conflict in Dagestan, condemning the violent attempts of extremist forces and calling on Russia to carry out the operations necessary to restore security and order.[24] It was only later that criticism emerged. On 29 September 1999, Germany, France, and Italy issued a common statement in which they expressed their deepest concern about Russia's bombing campaign in Chechnya and urged Russia to find a political solution. This mini-lateral statement came as a surprise to the Finnish EU presidency, which was forced to deliver a similar statement in the name of the Union on the same day with even stronger emphasis, in order to maintain at least some credibility. It argued that only negotiation with moderate Chechens would stop the slide toward war and warned that escalation would increase civilian casualties. The EU Council that convened in mid-October expressed deep concern over the deteriorating situation in the North Caucasus and underlined the need for political dialogue.[25]

Corner of Hell. Dispatches from Chechnya (Chicago: University of Chicago Press, 2003); Andrew Meier, *Chechnya. To the Heart of a Conflict* (New York: W. W. Norton & Co., 2005).

[22] Meredith L. Roman, "Making Caucasians Black: Moscow Since the Fall of Communism and the Radicalization of Non-Russians," *Journal of Communist Studies and Transition Politics* 18 (June 2002): 1–27.

[23] Manacorda Francesco, "Un'altra Crisi Difficile per L'Unione Europea La Russia non e'la Serbia, Solana: con Mosca non alziamo la voce," *La Stampa* (Turin), 18 November 1999, 8.

[24] European Parliament, 16 September 1999, accessed at http://europa.eu.int/abc/doc/off/bull/en/9909/p104067.htm, 6 June 2005.

[25] Council, 11 October 1999, accessed at http://europa.eu.int/abc/doc/off/bull/en/9910/p105076.htm, 6 June 2005.

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The continuation of the war and human rights violations in Chechnya rekindled the debate about whether the EU should adopt sanctions of some sort against Russia, as argued by many political analysts and columnists. The threat of sanctions was tempered by the desire to avoid isolating Russia from the European security order and derailing EU–Russian relations. Finland, holding the EU presidency, defended an approach that married criticisms within a framework of engagement with Russia. Finland took this position partly because it feared that the planned meeting with Russia on the Northern Dimension of the EU would fall first victim to the ensuing dispute if a less constructive approach were to be adopted. Finland wanted to continue a proactive role without resorting to sanctions. In a visit by Foreign Minister Tarja Halonen to the region of Ingushetia, Russia was urged to explore the possibilities of initiating a political dialogue with Chechnya, but Russia's behavior was not directly condemned, much less threatened with sanctions. Indeed, Halonen noted that cutting foreign assistance to Russia in response to the war in Chechnya would not constitute a sensible policy at the time.[26]

However, Germany and France then took the lead in the criticism of Russian behavior in Chechnya. The German Foreign Minister, Joschka Fischer, cancelled his participation in the Helsinki meeting on the Northern Dimension (which the Russian foreign minister was to attend) and, subsequently, other EU foreign ministers followed suit: the Finnish hosts were the sole EU representatives. Fischer, alongside French Foreign Minister Hubert Védrine, reinforced this critical message in *Die Zeit* and *Le Monde*.[27] Fischer argued that Russia was conducting an ill-conceived policy in relying solely on military solutions, rather than on multilateral consultations involving its neighbors; and, in addition, that Russia must consult its neighbors according to international treaties or the entire region would become destabilized. At the OSCE meeting in Istanbul, in December of 1999, the EU states continued to press this point, and Védrine optimistically concluded, "Russia has realized that it cannot ignore the reaction of the international community any longer and in particular the reaction of its main [W]estern partners."[28]

The war in Chechnya reached its most severe phase in December of 1999, when Russian forces delivered an ultimatum to the people of Grozny: leave the city or face annihilation. The siege of Grozny coincided with the European Council meeting that was held on 10–11 December 1999. The Council clearly had to do something. The importance placed on Chechen human rights violations was underscored by the introduction of this issue into the agenda as the first item under discussion. After long negotiations, the European Council issued the Declaration on Chechnya, which outlined penalties and sanctions that might be applied to Russia if it failed to change the conduct of the conflict.

[26] Press conference held in Helsinki on 18 October 1999.

[27] "Das neue Tandem," interview with Joschka Fischer and Hubert Védrine, *Die Zeit* (Hamburg), 28 October 1999.

[28] "France's Védrine: Russia Can't Ignore West on Chechnya," LCI Television, 19 November 1999.

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These sanctions included the withdrawal of the PCA agreement and trade sanctions through the suspension of trade provisions and of the TACIS program.[29]

By EU standards, the Declaration on Chechnya represented a relatively tough formulation of the EU position, urged, in particular, by France and Germany. However, following a series of compromises, it was still a vaguely worded, ambivalent political document. It did not indicate which provisions within the PCA would be suspended. It was also unclear whether the declaration had already asked the Commission to prepare for sanctions or whether it merely threatened Russia with sanctions.

Although the ultimatum declared by Russian forces was not carried out to the extreme, there were very few indications that the EU declaration had any meaningful effect upon Russia's conduct. This realization prompted the EU General Affairs Council to accept what might be considered a very limited understanding of limited sanctions in January of 2000: two-thirds of the TACIS funding was transferred to democracy, civil society, and humanitarian assistance, and finalizing an agreement on cooperation in science and technology was suspended. Because it was highly unlikely that such limited steps would have the slightest salutary effect, there was little consensus over whether the decision to apply sanctions was wise. Britain's Prime Minister, Tony Blair, adopted a skeptical stance toward the sanctions: "Some say that because of our concerns about Chechnya we should keep some distance from Moscow. I have to tell you that while I share those concerns, I believe that the best way to register those concerns and to get results is by engaging with Russia and not isolating Russia."[30] Javier Solana argued that the EU must address the Chechen issue without endangering future EU–Russian relations. It was important, he noted, "to discuss and respond to a problem like this constructively and in a manner of mutual respect."[31] In contrast, on Russian television, Hubert Védrine justified the sanctions by arguing that "we cannot pretend that everything is fine" and threatened that "we might have to go further, regrettably." In his view, "The way in which the Russians are dealing with the Chechen tragedy is in total contradiction with the idea they have of closer relations between Russia and Europe."[32]

Because both the Russo–Chechen conflict and Russia's human rights record indicated no sign of improvement through the spring of 2000, the EU continued its verbal criticism. Solana argued that Russia's policy toward Chechnya

[29] Raimo Lintonen, "Understanding EU Crisis Decision-Making: The Case of Chechnya and the Finnish Presidency," *Journal of Contingencies and Crisis Management* 12 (March 2004): 29–38.

[30] "Blair Calls for Chechnya Probe," BBC News, 11 March 2000, accessed at http://news.bbc.co.uk/1/hi/world/europe/673978.stm, 6 June 2005.

[31] Javier Solana, "EU–Russia Relationship at the Start of the New Millennium," *Kommersant Weekly* (Moscow), 14 January 2000, accessed at http://ue.eu.int/cms3_applications/applications/solana/details.asp?cmsid=246&BID=108&DocID=61420&insite=1, 6 June 2005.

[32] "Védrine Interviewed on Putin, Chechnya," NTV, 4 February 2000.

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was unacceptable.[33] The General Affairs Council and the European Council issued statements containing the usual phrases: "condemnation of the use of disproportionate and indiscriminate force"; "the desperate situation of civilians"; "international organizations and observers to perform their mission freely"; "the establishment of a ceasefire"; "the opening of a political dialogue with representatives of Chechnya"; and "independent investigations of human rights violations."[34] The EU "called," "urged," "regretted," and "supported" similar initiatives of other organizations, and even "acknowledged progress" when Russian authorities accepted the presence of Council of Europe experts, but there was no consensus on what else it could do or how it could strengthen its message.[35] In particular, there was no reference to any "stick" or "carrot" that would underpin the policy. Indeed, these exhortations might best be understood as ritualistic exercises expressed without the slightest expectation that they would impact in any discernable way upon Russia's behavior.

Therefore, it came as no surprise that at the EU summit in Feira in June of 2000, the Union reconsidered its policies and decided to lift the sanctions that had been in place since February of 2000. The reasoning behind this decision was that the EU was keen to create a good relationship with the new administration of President Vladimir Putin and wished to give him the benefit of the doubt. This justification was perplexing, not least inasmuch as Putin had been de facto president since the launch of the second campaign; the presidential election was utilized as a pretext upon which to bury a failed policy. The European Council still continued to call on Russia to meet its commitments and obligations within the ongoing conflict in Chechnya. These included avoiding the excessive use of force, cooperation with the Council of Europe and the OSCE, ensuring the delivery of humanitarian aid, and an effective independent investigation into human rights abuses. And as it had done so many times before, it reiterated the argument that "only a political solution can put an end to this crisis."[36]

France, the most vociferous EU member state critic of Russia's behavior in Chechnya, began to tone down its rhetoric as its relations with Russia deteriorated and it alone bore the costs.[37] The French EU presidency, in the autumn of 2000, provided a good opportunity for repairing its relations with Russia, and the EU–Russia summit in October was deemed very successful, in that it

[33] Javier Solana, "Speech before the Plenary of the European Parliament," Strasbourg, 1 March 2000.

[34] Council conclusions on relations with Russia, 14 February 2000, accessed at http://europa.eu.int/abc/doc/off/bull/en/200001/p106103.htm, 6 June 2005. Council conclusions on Chechnya, 20 March 2000, accessed at http://europa.eu.int/abc/doc/off/bull/en/200003/p106062.htm, 6 June 2005. Independent States of the former Soviet Union, Mongolia, accessed at http://europa.eu.int/abc/doc/off/bull/en/200003/p106059.htm, 6 June 2005.

[35] Council conclusions on Chechnya, accessed at http://europa.eu.int/abc/doc/off/bull/en/200004/p106056.htm, 6 June 2005.

[36] Santa Maria Da Feira European Council, 19 and 20 June 2000: Conclusions of the Presidency, accessed at http://www.europarl.eu.int/summits/fei1_en.htm, 6 June 2005.

[37] Claire Trean, "Bouderie Franco-Russe," *Le Monde* (Paris), 18 June 2000.

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secured Russia's support for the development of the European Security and Defense Policy. Clearly, France was unprepared to allow the Chechen issue to detract from the success of the summit or, more generally, its bilateral rapprochement. In the summit declaration, Russia agreed to pursue a political solution to the conflict, but that phrase meant little in practice.

During the Swedish presidency, in the spring of 2001, the EU and its member states continued to pressure Russia to use political rather than military instruments in managing the conflict. The EU repeatedly urged that the alleged human rights violations be properly investigated. The EU–Russia summit in Stockholm, in March of 2001, and the Gothenburg summit in June both expressed concern regarding Chechnya, but the summits' primary emphasis was placed on economic issues and the importance of developing a partnership with Russia. Instead, the EU clashed with Russia over Chechnya in the UN, where the UN Commission on Human Rights approved an EU-sponsored declaration condemning Russia in April 2001.[38] Russia's willingness to allow an EU delegation to visit Chechnya on a fact-finding mission represented a step forward. The subsequent report characterized the situation in Chechnya as extremely serious. The Swedish ambassador who headed the mission stressed that much progress had still to be made to bring life back to Grozny and restore confidence in its citizens.[39]

Yet, the EU politicians had already started to reassess the importance of the Chechen issue in their relationship with Russia. French Foreign Minister Védrine argued that "we do not withdraw any of what we have said about Chechnya but Russia is a great country with which we want to maintain . . . good relations." Fischer, in turn, defended the policy change by contending that Chechnya was not a European conflict like the one in Yugoslavia because "we cannot force Russia to change its policy although we would use all available means."[40]

Indeed, Russia responded to the EU criticism and pressure in various ways: by "accepting," "protesting," "denying," and "dismissing," but not by changing its policy.[41] Russian presidential aide Sergey Yastrzhembskiy reassured the EU that Russia was making efforts to investigate the criminal offences that had been committed in Chechnya, but impunity still prevailed. Yastrzhembskiy also denied that any gross violation of human rights had occurred in Chechnya and demanded apologies from the French dailies for their distorted coverage of the conflict.[42] In turn, the Russian foreign ministry condemned the EU Parliament's declaration as being "too sharp by its form and not very convincing by its con-

[38] "UN Condemns Russia over Chechnya," BBC News, 20 April 2001.

[39] *ITAR-TASS* (Moscow), 10 May 2001.

[40] Interview with Joschka Fischer, *Tagesspiegel* (Berlin), 7 January 2001.

[41] Thus, the Russian response did not fully match the sequence of "denial," "tactical concessions," and "rule-consistent behavior" of the "spiral model," as suggested by Risse, Ropp, and Sikkink, *The Power of Human Rights*, 1–38.

[42] *Interfax* (Moscow), 15 February 2001.

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tent."[43] The Russians appeared to contend that their behavior was, in fact, fully normal and comparable to Western standards. Responding to EU criticism, Deputy Foreign Minister Ivan Ivanov argued that Russia had "no allergy to the Chechen theme." In his view, Russia's battle with "terrorists" in the North Caucasus republic was no different from Macedonia's ongoing struggle with Albanian separatists. Furthermore, Ivanov attempted to draw parallels between the conflicts: "These [EU] amateurs on the Chechen issue should occupy themselves with Macedonia, where the European Union is about to get its own Chechnya."[44] Russian policy analysts also tended to dismiss the EU criticism. Broadly speaking, these analysts argued the following: Chechnya was no different from internal separatist problems the EU faced; Europeans were simply misinformed about the nature of the conflict; and Russian measures were justified as an antiterrorist campaign.[45] Russian public opinion was also to remain largely unaffected by such external concerns; the Putin administration effectively controlled information flows and "framed" the substance of reporting on Chechnya within the Federation.[46]

Russia's main argument in response to external criticism was to link the war in Chechnya to the growing danger that radical Islam and international terrorism posed for Russia and the West.[47] Russian attempts to demonstrate a link between al Qaeda terrorists and Chechen separatists were, however, largely unsuccessful prior to September 11. EU member states and institutions were not receptive to this argument, and some analysts considered it a cloak to cover Russia's inability to exercise civil control over the military fighting in Chechenya—justification to rationalize the weakness of central power in Russia.

From September 11 to Beslan: EU–Russian Relations

The terrorist attacks in New York and Washington on 11 September 2001 transformed the context of the Chechen war. The atrocities on U.S. soil demonstrated the interconnectedness of terrorist networks. The attacks of September 11 reaffirmed to Moscow the legitimacy of Russia's determination to pursue the war in Chechnya and created a new dynamic in Russian foreign policy. According to Russian perspectives, the West realigned itself with Moscow in the "Global War on Terrorism." As Russian Defense Minister Sergei Ivanov noted on 24 September 2001 in a meeting with U.S. National Security Advisor Condoleezza Rice, "Chechnya and Afghanistan are branches of the same tree."[48]

[43] *Interfax* (Moscow), 20 February 2001.

[44] *RFE-RL*, 17 May 2001, accessed at http://www.rferl.org/nca/features/2001/05/17052001112856.asp, 6 June 2005.

[45] Susan B. Glasser, "Putin's War Persists as Mood Shifts," *Washington Post*, 27 June 2001.

[46] Theodore Gerber and Sarah Mendelson, "Russian Public Opinion on Human Rights and the War in Chechnya," *Post-Soviet Affairs* 18 (October–December 2002): 271–305.

[47] *ITAR-TASS* (Moscow), 6 July 2000

[48] BBC Monitoring Research, 7 September 2002.

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If September 11 provided the context within which a rapprochement in Russian–U.S. relations could take place, what was its impact on Russian–EU relations, particularly with regard to EU responses to Russia's conduct of the "anti-terrorist operation" in Chechnya? Although the EU reduced and softened its criticisms of Russian actions in Chechnya following September 11, it nevertheless resisted the temptation to subscribe to the Russian view that the war in Chechnya was an integral part of the global war on terrorism. A greater awareness of the potential and actual links between al Qaeda and the Chechen rebels did not persuade the EU to abandon the argument that the conflict demanded political rather than military solutions.[49] Not every Chechen was a terrorist; therefore, there was no justification for using military force indiscriminately, neglecting human rights commitments, and dismissing all calls for negotiations.

Thus, this Russian interpretation of the situation in Chechnya as an "anti-terrorist conflict" rather than a separatist struggle was more readily accepted by European states after September 11, but with provisos calling for Russia to respect and uphold the human rights of Chechens. Most notably, during Putin's visit to Berlin, German Chancellor Gerhard Schröder declared that the Chechen conflict must be reassessed in light of September 11, and although he was never explicit on the extent of the reassessment, the message was clear.[50] Prime Minister Blair, too, argued that "the whole perception of Russia, in Europe and in the West, has been transformed." Instead of discussing human rights violations, he declared that Russia had a legitimate right of self-defense against extremism and fundamentalism but warned against the dangers of the conflict spilling over into neighboring states.[51] French Prime Minister Lionel Jospin contended that terrorism had to be fought wherever it manifested itself, including Chechnya. But he continued to insist that this did not give Russia carte blanche to rely solely on the indiscriminate use of military power; he stressed the importance of a political solution and argued that simply calling on the Chechens to surrender did not constitute a workable conflict resolution strategy.[52]

This change in attitude was also to become evident in the course of EU–Russian relations.[53] By May of 2002, the issues of human rights and Chechnya were no longer central to the agenda of the EU–Russia summit. Instead, the Commission President, Romano Prodi, listed three issues as key themes: combating security threats, stepping up trade and investment, and drawing mutual

[49] For a discussion of Russian allegations of al Qaeda–Chechen links, see: Graeme P. Herd, "The Russo-Chechen Information Warfare and 9/11: Al-Qaeda through the South Caucasus Looking Glass?" *European Security* 11 (Winter 2002): 110–130; John Russel, "Exploitation of the 'Islamic Factor' in the Russo–Chechen Conflict Before and After 11 September 2001," *European Security* 11 (Winter 2002): 96–109; Ralph Davis and Robert Bruce Ware, "Was Aslan Maskhadov Involved in the Moscow Hostage Crisis," *Journal of Slavic Military Studies* 16 (September 2003): 66–71.

[50] Steven Erlanger, "Schröder Urges Milder View of Moscow Role in Chechnya," *The New York Times*, 25 September 2001.

[51] *RIA Novosti* (Moscow), 3 January 2002.

[52] Hélène Despic-Popovic, "Tchétchénie: Paris reste critique," *Liberation* (Paris), 23 October 2001.

[53] "EU Caves In to Putin over Chechnya," *European Voice* (Brussels), 4 October 2001.

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benefit from enlargement. The Commissioner for External Relations, Christopher Patten, nevertheless did raise the issue of human rights in Moscow, but only to remind his audience that "we should also be able to discuss things like human rights abuses and access of international humanitarian operators in Chechnya."[54] The EU Parliament also moderated its language but still called on Russia and the Chechen Republic to find a peaceful solution to the conflict.[55]

At the next EU–Russia summit, during the Danish presidency of the EU, the issue of Chechnya and human rights was still low on the agenda. Despite this, a clash over Chechnya reemerged when the exiled Chechens held their world congress in Copenhagen. Russia accused Denmark of supporting terrorism by not prohibiting this meeting and requested that Maskhadov's representative, Akhmed Zakayev, be extradited from Denmark. After Denmark refused, Putin announced that he would not travel to Copenhagen for the twice-yearly EU–Russia summit. Because the EU wished to prevent an escalation of the dispute, the summit was shifted to Brussels, where the issue of Chechnya was publicly avoided until the final press conference, where Putin lost his temper when questioned about the Chechens. Indeed, the Western media concluded that the EU had failed to pay attention to the conflict in Chechnya. In a very unusual manner, Patten defended the EU and Danish Prime Minister Anders Fogh Rasmussen against these allegations and assured the media that the EU had not forgotten Chechnya and that they had had "an extremely vigorous exchange."[56]

The October 2002 *Nord-Ost* hostage-taking siege at a theater in Moscow preceded the EU–Russia summit in Brussels. In the Russian media and government, this siege was presented as a new episode in the global war on terror and characterized as "Russia's 9/11." This was not the perception of Western news agencies and media, who reported the actions of Chechen "rebels" rather than "terrorists," and criticized the Russian government's refusal to identify the gas it used during the rescue mission to end the siege—the secrecy cost dozens of lives that could have been saved. In contrast, the reaction of the EU political leaders was clearly more sympathetic to the Russian government. Indeed, the siege helped the EU politicians strengthen their relationship with Putin. When Putin met Jacques Chirac in Sochi in October 2002 and Schröder in Oslo in November 2002, both reiterated this conciliatory line; the leaders of these major EU countries did not highlight human rights violations at all.[57]

[54] Speech by The Rt Hon Chris Patten, CH. European Business Club (EBC) Conference on "Shaping Russian–European Integration in the 21st Century." Moscow, 28 May 2002, accessed at http://europa.eu.int/comm/external_relations/news/patten/sp02_235.htm, 6 June 2005.

[55] European Parliament resolution on the situation in Chechnya, 10 April 2002, accessed at http://europa.eu.int/abc/doc/off/bull/en/200204/p106059.htm, 6 June 2005.

[56] Declaration by The Rt Hon Chris Patten, CH at the European Parliament Development Committee 12 November 2002, accessed at http://www.europa.eu.int/comm/external_relations/news/patten/ip02_1655.htm, 6 June 2005.

[57] "Schröder lobt Putins Tschetschenienpolitik," *Der Spiegel* (Hamburg), 12 November 2002.

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The EU's demonstration of greater solidarity with Russia was not reflected in an increased Russian acceptance of the EU's human rights concerns in the Chechen conflict. On the contrary, the EU's long-standing view that the conflict in Chechnya could not be regarded as a purely internal Russian affair was badly undermined when Russia decided, without providing justification, not to extend the mandate of the OSCE assistance group after 31 December 2002. The EU regretted Russia's action and urged Russia to reconsider but did not threaten it with sanctions.[58]

Indeed, it appeared that the EU was prepared to accept any solution to the conflict that would allow the prospect of "normalization." In practice, this approach to a "solution" entailed an implicit support for Russia's policies. In March of 2003, the EU welcomed the constitutional referendum in Chechnya, although, in a war zone, it was clearly impossible to organize this vote in a free and fair manner.[59] Although the EU foreign policy *troika*, visiting Chechnya in April, noted changes for the better, their pro-Moscow Chechen hosts did not raise the issue of human rights.[60] At the EU–Russia summit in May 2003, Prime Minister Costas Simitis of Greece (holding the EU's rotating presidency) stated that the EU would "continue to support the efforts of Russian leaders to carry out a policy aiming to bring peace back to Chechnya." He characterized the March 2003 constitutional referendum and Putin's new amnesty plan as "an important step forward."[61] Although the EU condemned violence in the breakaway republic, it did not specifically address allegations of brutality by Russian soldiers against Chechen civilians. Later, in June of 2003, Blair assured Putin that Russia's war in Chechnya was understood in the context of the fight against international terrorism.[62]

In the October 2003 Chechen presidential elections, the Kremlin-supported candidate, Chechen administrator Akhmad Kadyrov, received more than 80 percent of the vote. Although human rights organizations characterized the elections as a farce, the EU leaders and representatives greeted this result with what could be described as cautious acceptance. Diego de Ojeda, the spokesman for the EU's external affairs commissioner, publicly expressed doubt as to whether the elections were free and fair, but contended that the EU would support any moves aimed at restoring peace in Chechnya.[63] While no European leader embraced the results with great enthusiasm, none issued any major criti-

[58] EU Statement on Chechnya, Permanent Council no. 432, 23 January 2003, accessed at http://europa.eu.int/comm/external_relations/osce/stment/che230103.htm, 6 June 2005.

[59] Ahto Lobjakas, "EU: European Commission Says Referendum In Chechnya A 'Positive Step,'" *RFE/RL*, 24 March 2003, accessed at http://www.rferl.org/nca/features/2003/03/24032003180453.asp, 6 June 2005.

[60] *Interfax* (Moscow), 8 April 2003.

[61] "EU Pledges Support for Russia's Peace Plan in Chechnya," *Agence France Presse*, 31 May 2003.

[62] Andrew Jack, "Blair Keen to Smooth Bumps in UK Relations with Moscow," *Financial Times* (London), 24 June 2003; Peter Reddaway, "Chechnya: An Apology," *The Guardian* (Manchester), 30 June 2003.

[63] "EU Issues Cautious Assessment of Chechen Elections," *RFE/RL*, 6 October 2003.

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cism. It was telling that when Schröder met Putin in Ekaterinburg immediately after these elections, not only did he fail to raise the issue of human rights abuses and democratization, but Chechnya itself was not on the agenda of this self-declared "economic summit."[64] Even more strikingly, the Italian Prime Minister, Silvio Berlusconi, defended Putin's policy and the rule of law in Russia at the EU–Russia Rome summit and accused international media of "spreading legends."[65] Berlusconi's handling of the summit caused a stir inside the Union but did not lead to corrective measures with regard to the Union's Chechen policy. Rather the reverse: it merely served to emphasize the extent of media criticism of Western governments for their continued neglect of human rights abuses in this republic.[66]

Indeed, the EU's adoption of a more accommodating line failed to change Russian policy in Chechnya. This approach did not help transmit the fundamental concern for upholding and promoting respect for human rights and for avoiding excessive use of force against the civilian population. Nor did it improve the EU's image in Russia. The opposite occurred. The attempts of the EU to foster these aims were badly misperceived in Russia: the EU did not possess any legitimate right to criticize Russia about its internal affairs, and all such attempts undermined Russia's sovereignty and at heart were anti-Russian. The Russian foreign ministry, for example, accused the European Parliament of using double standards and argued that its resolution cast "doubt on the sovereign right and obligation of a state to support constitutional order on its territory."[67] The State Duma, in turn, called the declaration "anti-Russian and excessively politicized," arguing that the European Parliament had omitted any information that indicated progress in the observance of human rights and had ignored human rights violations in the United States and in the Baltic states.[68] The EU was clearly understood to be a more difficult partner than the United States. As one analyst noted: "While the US leaders appear to understand that the Chechen situation is rather complex and multi-dimensional and that Russia indeed has been compelled to deal with confirmed terrorists, West European politicians and analysts have often seen the Chechen problem as a violation of human rights on the part of the federal forces, with the terrorist activities of the Chechen separatists being completely overlooked."[69]

Both the EU's tendency to accept the Kremlin's view of the conflict in Chechnya and Moscow's overly sensitive reaction to even the smallest amount

[64] Manfred Quiring, "Zukunftmusik aus Jekaterinburg," *Berliner Morgenpost*, 10 October 2003.

[65] Judy Dempsey, "Berlusconi in Protective Mode over Putin Visit," *Financial Times* (London), 7 November 2003.

[66] "Looking the Other Way," *The Guardian* (Manchester), 2 October 2003.

[67] *Interfax* (Moscow), 12 April 2002.

[68] *ITAR-TASS* (Moscow), 24 April 2002.

[69] Konstantin Khudoley, "Russia and the European Union: New Opportunities, New Challenges" in Arkady Moshes, ed., *Rethinking the Respective Strategies of Russia and the European Union* (Moscow/Helsinki: Carnegie Moscow Center/Finnish Institute of International Affairs, 2003), 18.

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of external criticism have been constants in the EU–Russia relationship. This was demonstrated yet again following a three-week period of harrowing terrorist attacks through August and September of 2004, in which 438 people died: on 24 August, two planes collided after an explosion, killing 89 passengers and crew; on 30 August, 10 people died in a suicide bomb blast at Rizhskaya subway station in Moscow; the Beslan school hostage crisis, which ended 3 September, claimed 339 lives, with more than 700 injured.[70] The leaders of the major EU countries were quick to sympathize with the Kremlin and condemn Chechen terrorism. They understood that it would be an inappropriate moment to remind Moscow of a link between the behavior of Russian forces in Chechnya and the terrorist acts, although five years earlier, they had emphasized that Russia would remain unable to stabilize the conflict in Chechnya as long as the excessive use of violence continued. The only exception occurred when Bernard Bot, the Foreign Minister of The Netherlands, which was holding the EU's rotating presidency, asked the Russian government "how this tragedy could have happened." Although Bot's spokesman reported that the Minister's "intentions were misinterpreted" by poor translation, the Russian foreign ministry reacted harshly, with Russian Foreign Minister Sergey Lavrov calling it "inappropriate and blasphemous."[71] European Commission officials were quick to assure Moscow that Bot's comments on the tragedy had been misunderstood by Moscow. Commission spokesman Reijo Kemppinen stated: "The blame cannot be put on anyone but those who committed the horrible crime."[72]

As is evident, the post-September 11 era has merely underscored the manner in which the war in Chechnya and Russian human rights abuses against civilians have continued to diminish as priorities on the EU-Russia agenda. The EU has emphasized the importance of "strategic partnership" and "energy dialogue" and avoided criticism of Russia's human rights abuses in Chechnya. Despite the EU's cherished self-image as a normative power, it is not purely a normative actor. EU leaders decided not to sacrifice political capital by raising the issue of Chechnya and human rights, which would have undermined the prospect of better relations with Russia.

An Assessment of EU Policy Ineffectiveness and Failure

How can we assess the effectiveness of the EU's attempts to influence Russian human rights policy in Chechnya? Despite the EU's occasional vociferous con-

[70] Igor Torbakov, "The West: Friend or Foe For Russia?" *Eurasia Insight*, 9/13/04, accessed at http://www.eurasianet.org/departments/insight/articles/eav091304.shtml, 6 June 2005. See also Michael Radu, "Russia's Problem: The Chechens or Islamic Terrorists?" Foreign Policy Research Institute, 3 September 2004, accessed at www.fpri.org, 6 June 2005.

[71] "Dutch PM Sends Emotional Message to Beslan Families," *Agence France Presse*, 7 September, 2004; Nadezhda Popova, "Foreign Minister Wants Explanations Once Again," *Izvestia*, 9 September 2004.

[72] "EU Holds Minute's Silence for Russian Victims; Regrets Earlier Misunderstanding," *Deutsche Presse-Agentur*, 6 September 2004.

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demnation and the threatened and actual use of sanctions against Russia, the impact on Russian decision making appears to have been meager and to have generated little positive change in behavior or in the approach to the conflict. The EU's "softly-softly" policy of engagement and offering positive examples has not diminished human rights abuses.

As a result, even the most committed Europhile cannot claim that the EU's policy toward the Chechen question represents a success story, an effective and impressive demonstration of the EU's ability to match principles to action. Not only could the EU not change Russia's policy, it failed even to gain a legitimate interest in promoting a human rights agenda in Russia. This negative assessment is hardly contentious, but it does not provide us with sustained explanations to account for the policy ineffectiveness and ultimate failure, nor does it identify the reasons why the EU adopted this failed approach in the first place.

In a very fundamental sense, one can argue that the EU lacked the instruments, tools, and means to shape Russo–Chechen policy, and that this ultimately accounts for the failure of the policy. However, this explanation remains too simplistic, neglecting as it does internal factors: if the EU had demonstrated a greater unity and consistency in support of its normative agenda and in pressing for and prioritizing this agenda in its relations with Russia, it might at least have ameliorated the worst abuses. Let us examine the three interrelated shortcomings that provide explanations for the EU's policy failure: its lack of power resources, will, and skill.

With hindsight, it seems clear that it was unrealistic to suppose that the EU could determine Russian internal policy making toward its regions. Russia perceived the Chechen issue as a core national security concern—which it was, with the potential to unravel the Federation, pushing center–periphery relations toward the creation of a loose confederation. The EU simply did not have any leverage or "stick" that would have been big enough to beat Russia into order, nor were the "carrots" sweet enough to tempt Russia to constrain its behavior and risk the realization of de facto Chechen independence. As has become apparent through the 1990s, the EU is most successful in exporting its moral values when it has been able to offer the prospect of membership. In the Russian case, this was not possible, and, therefore, the normative power of the EU was much diminished and more easily dismissed in Russia. The EU's weakness was also a reflection of its inability to coordinate responses with the United States; in particular, post-September 11 EU representatives have felt unsupported in pushing the normative agenda.

Turning to explanations rooted in the internal weakness of EU policy and decision making, we can argue that the policy failed because it was never seriously prioritized. We do not know what the effect might have been had the EU utilized all means available. EU policy making sacrificed a coherent and systematic promotion of a substantive, rather than symbolic, normative agenda on the altar of EU unity. Because the EU wanted to prevent the Chechen issue from spilling over and "contaminating" the rest of the EU–Russia policy agenda,

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which would disrupt or stall cooperation, all leeway was extended to Russia. Never, for example, was Russian policy in Chechnya tied to the EU's willingness to import Russian energy. In effect, the EU has had to choose between accepting a lowest-common-denominator approach to Russia or having no approach at all, inasmuch as member states exhibited little ability to agree on sharper and more-focused responses that would privilege normative issues over stronger EU–Russian relations. This approach was driven forward in ways that have generated short-term political capital for particular member states at the expense of undercutting the role, function, and integrity of key EU institutions over the longer term. Indeed, the willingness of the EU member states to prioritize their bilateral relations and strategic interests in Russia over the integrity of a unified and common EU approach is a key explanation for the ineffectiveness of EU policy toward Russia.

Moreover, clarity of policy making lost out to irrationality, confusion, and mistaken judgments. The EU proved to be politically unreflexive and lacked the ability to bring precision to its approach. It failed even to elaborate a comprehensive Chechen policy (aims, objectives, means): what did the EU's "Russia strategy" intend to achieve with respect to Chechnya? Finnish Foreign Minister Erkki Tuomioja noted that "there has never been a sufficiently thorough-going discussion on the issue in the EU's general affairs council."[73] The EU never clearly articulated its preferred "political solution": in the second campaign, it could at first be understood to mean that Moscow should negotiate with Maskhadov, but later, it appeared to mean that the Russian-sponsored political institutions and political figures in Chechnya should have full legitimacy. Indeed, the EU's insistence on a political rather than a military solution neglected the fact that in both 1996 and 2003, the decision to initiate negotiations between the warring parties was intricately bound to the effectiveness of their military instruments. Because the EU did not elaborate on the kind of political solution it favored, it was ready to accept any "political" outcome independently of the means through which it was achieved. The EU has also avoided naming individual crimes, but references to concerns related to Chechnya tend increasingly to be subsumed under general pressure on Russia to improve its human rights record and safeguard democratic freedoms. Such general demands are easily neglected.

Indeed, the EU's Chechen policy reveals a series of inconsistencies and a lack of coherence. The gulf between EU statements and EU action has proven unbridgeable on occasion: For instance, the EU lifted sanctions or dropped demands for international inquiry into human rights violations despite the situation on the ground moving from bad to worse; or the EU switched from supporting negotiations with Maskhadov as the legitimate representative of

[73] Minister for Foreign Affairs Erkki Tuomioja, "Does the European Union Have a Human Rights Policy with Regard to Chechnya?" Speech given at the Amnesty International Seminar "How to Solve the Crisis in Chechnya," Helsinki, 28 February 2003.

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Chechnya to sidelining him with no obvious reason to discredit his participation. The EU insisted on an international inquiry into the conflict in Chechnya but did not systematically implement its demand. Moreover, the EU did not coordinate its policy with other international institutions: For example, in 1996, the IMF extended extensive loans to Russia despite the EU's condemnation of Russian Chechen policy. In effect, the EU was criticizing a war it helped finance.

In light of the failure of the EU's Russo–Chechen approach during the first campaign, why was such a misjudged policy re-adopted and sustained in the second? Again, three interrelated explanations are apparent. First, the strong formulations of the Chechen declaration in 1999 were adopted—as we have indicated—because the more resolute German and French foreign ministers understood that Russia, weaker after the August 1998 financial meltdown, would become more accommodating and pragmatic, more readily constrained from committing the worst human rights excesses.[74] Thus, at the start of the second campaign, the EU was overly optimistic that Putin's Russia would undertake a more accommodating response, a supposition buttressed by EU functionaries and politicians who had imbibed the wrong "lessons" from the first campaign, erroneously believing that their criticism had played a role in ending that war. However, as the second campaign progressed through 2000, it became evident to even the most optimistic of the EU and the member states that the application of sanctions had failed to have an effect on the conduct of Russia's Chechen campaign. Once the limitations of the policy were apparent, a new spirit of pragmatism informed the process by which politicians began to distance themselves from their hard-line policy.

Second, even as the EU's normative agenda was proving ineffective in shaping Russia's response, it sustained itself through consolidating the EU's normative identity.[75] The EU's response to the conflict in Chechnya shed light on its own self-perception. It indicated the nature of the EU's identity, shaped an understanding of the common values that bind its members together and, by extension, elaborated a concept of what the EU is *not*: Russia. Thus, the EU learned to react quickly to heavily publicized violations of human rights in Chechnya, but then to constrain its actions with an extremely light touch.

Third, the policy failed for more cynical reasons as well. Paradoxically, the very ineffectiveness of the EU policy recommended itself to national leaders. They could continue to promote it for domestic political reasons, safe in the knowledge that their bilateral strategic partnership with Russia would be preserved. In response to domestic pressure and criticism to react to human rights abuses in Chechnya, individual EU member states were able to refer their publics to EU statements of condemnation and concern. EU declarations provided them with a safe haven: they could criticize Russia without damaging bilateral

[74] See statements above (endnotes 27 and 28) by French Foreign Minister Védrine, 19 November 1999, and German Foreign Minister Fischer, 28 October 1999.

[75] For an examination of the "identitarian justification," see Adeno Addis, "Economic Sanctions and the Problem of Evil," *Human Rights Quarterly* 25 (August 2003): 573–623.

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relations. Indeed, these same member states could then ignore references to such "condemnation" and "concern" in bilateral relations with Russia.[76] In this way, member states appeared to have supported a principled stance, but in reality had adopted a Catch-22 strategy designed to best preserve their strategic partnerships with Russia. For example, the Chechnya declaration of 1999 indicated that the member states were not willing to risk their bilateral relations with Russia; the instruments used were those of the Union, rather than those on the bilateral level.

The EU's failure to effectively promote its normative agenda in light of Russian human rights abuses in Chechnya was also shaped by the dynamics of the policy-making processes within the Union. In this sense, Chechnya provides another barometer: it charts the relative power relations between EU member states and institutions as well as the nature of policy responses. It is clear that the positions of the largest and most powerful member states changed the EU's policy line. Although states such as Denmark and The Netherlands had been actively promoting the human rights agenda, it was not until France and Germany demonstrated particular concern that the EU paid closer attention to Chechnya. However, at the same time, the policies of these larger member states were more inconsistent than those of the EU institutions. This illustrates the point that the Chechen policy of the EU countries cannot be understood as reflecting their general antipathies toward or sympathies with Russia; rather, the policy was driven by human rights concerns. Those countries less willing to direct economic resources to Russia were often more willing to assuage public opinion in Russia by ignoring the Chechen problem. When we regard the EU institutions, in turn, a pattern emerges in which the European Commission has been less hawkish than the European Parliament, which insisted, for example, on suspending the PCA treaty during the first Chechen War.

Conclusions: Lessons Learned

From the outbreak of the first Chechen War, the EU institutions and member states have grappled with the challenge of formulating a policy toward Russia that simultaneously encourages partnership and cooperation and addresses the issue of human rights abuses in Chechnya. Iver Neumann has argued that the goal of the EU has been to bind Russia to European values and norms, a process in which the EU is the teacher, Russia, the student.[77] The paradox is that the more Russia violated the norms and needed a teacher or mentor, the harder it became for the EU to sustain this role. In June of 1999, the EU identified Russia as the key "strategic partner"; by autumn, it was at war; Chechnya and human rights abuses became the key prism and point of reference through

[76] Hiski Haukkala, "What Went Right with the EU's Common Strategy on Russia" in Moshes, ed., *Rethinking the Respective Strategies*, 62–96.

[77] Iver B. Neumann, *Uses of the Other. "The East" in European Identity Formation* (Minneapolis: Minnesota University Press, 1999), 108.

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which all discussions on EU–Russian relations took place in this short period. This is not to suggest that the EU was any more effective in gaining Russian compliance with its normative agenda, but rather to argue that the EU focused greater attention on the issue. However, by 2000, Chechnya had been relegated to a minor and isolated issue on the agenda, one that did not cross policy boundaries and filter into other areas. Only recently has the Commission renewed its attention to this issue, arguing in February 2004 that the EU should be ready to frankly discuss all practices that run counter to universal and European values, including human rights in Chechnya. It noted that the EU should not hesitate to defend its interests vigorously.[78] The EU's response to the Beslan hostage crisis in September 2004 demonstrated the limitations of this approach.

Clearly, when the EU had to determine its order of priorities, *realpolitik* interests trumped the normative agenda. As Matthew Evangelista concludes, "The approach of European leaders to Russia seems driven largely by economic motives and desire to play a major role on a world stage."[79] While the eagerness to condemn Russia's behavior towards Chechnya can be understood as typical "back-seat driver" normative idealism, there was no real reason to sacrifice the support for moral imperatives to the unrealistic and unrealized expectations of greater instability and insecurity—the collapse of the Russian state or the emergence of an authoritarian regime. The EU had ample scope to push that agenda without risking Russian collapse. The opposite conclusion should have been drawn: if the EU believes in the stability-generating capacity of its own values, the manner in which Russia handled the problems in Chechnya would have only led to further destabilization and weakening of the state. Indeed, the fears that a more forceful EU position condemning the violations in Chechnya would have lead to chaos and internal wars or undermined stable political development toward democracy in Russia are not grounded. In short, *realpolitik* state interests were promoted at the expense of the normative agenda and under the cover of an implicit ethical consequentialist threat: "Hold onto nurse, for fear of something worse."

Of course, this is not to suggest that the EU should have concentrated all its energy and focus on the Chechen issue and ignored other important items on the EU–Russia policy agenda. We can always argue over where the balance should lie on any given occasion: EU representatives tend to think in private that the Chechen issue was perhaps too dominant on the EU–Russian agenda in the mid-1990s and in 1999, but as time passed, it became too marginal. Yet, this caveat aside, it is difficult to justify the EU's disregard for all concerns related to past violation of human rights and its willingness to interpret reality to reflect the limitations of its normative agenda: to pretend that human rights abuses were decreasing and that a regard for the human rights agenda shaped

[78] "Communication from the Commission to the Council and the European Parliament on Relations with Russia," COM(2004) 106, 9 February 2004; Judy Dempsey, " EU Admits Flaws in its Relations with Russia," *Financial Times* (London), 23 February 2004.

[79] Evangelista, *The Chechen Wars*, 184.

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EU actions. However, the EU was not prepared to prioritize the Chechen issue in EU–Russian relations, nor would it repudiate its vision of itself as a normative power. Appropriating Russia's view of the conflict solved this cognitive dilemma, although such an approach undermined the EU's ability to sustain a consistent policy toward the conflict. The net result was that by 2003, the EU was legitimizing Russian action at almost every level and on every occasion. A middle ground between sanctioning Russian violations excessively and freezing cooperation or endorsing or ignoring human rights abuses was possible. Ultimately, it would have better served the integrity of the EU not to have raised the Chechen issue at all within the EU–Russia agenda than to have done so in a form that is acceptable to the present Russian government: that is to say, in an empty and ineffectual way.

The collective effect of the EU response to sustain a workable relationship with Russia does not reflect well on the coherence and integrity of the CFSP itself. This study has implications for the EU's elaboration of strategic partnership with other "third parties," such as China and Iran, where a similar policy framework with the same balance and trade-offs will have to be struck. We should hope that Brussels and other EU capitals, rather than Beijing and Tehran, would draw lessons from the EU's ineffective approach to Chechnya, its inability to maintain a coherent policy, and its failure to uphold its own human rights agenda.*

* The views expressed in this article are those of the authors and do not necessarily reflect the official policy or position of the George C. Marshall European Center for Security Studies, the United States Department of Defense, the German Ministry of Defense, or the U.S. and German governments.

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Triumph of Globalism: American Trade Politics

ORIN KIRSHNER

The tariff is not an economic question exclusively. It is a political problem as well.
—E. E. Schattschneider (1935)

The Third Ministerial Conference of the World Trade Organization (WTO) was intended to launch a new round of global trade talks designed to deepen international trade liberalization and create a more open world economy. Hosted by the United States in Seattle, Washington, from 30 November to 3 December 1999, the Conference was heralded by President Bill Clinton and his advisors as "an historic opportunity for the United States to exercise leadership in setting the trade agenda for the next century." The political stakes were high. "Failure," said United States Trade Representative Charlene Barshefsky, "is not an option."[1]

Yet events did not turn out as planned. When WTO delegates arrived in Seattle, they were met by an unprecedented coalition of unions, family farmers, environmentalists, consumer rights activists, faith-based organizations, professional associations, and anti-poverty groups, who engaged in mass marches, teach-ins, and civil disobedience to protest the initiation of the so-called "Millennium Round." Although each of these groups championed its own special cause, they were united around a common political concern: *they believed that the foreign trade policy–making process was undemocratic and that it elevated global concerns over domestic ones*. Non-elected bureaucrats working largely behind

[1] Robert G. Kaiser and John Burgess, "A Seattle Primer: How Not to Hold WTO Talks," *Washington Post*, 12 December 1999.

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closed doors were responsible for setting international trade rules that affected agriculture, services, trade-related investment measures, intellectual property rights, public health and safety laws, and international trade in goods; and oversaw a binding international dispute settlement process with little (if any) input from the domestic citizens and groups who would be affected by these economic rules and political mechanisms.[2]

When it became obvious to local law enforcement authorities that some of these groups were intent on preventing WTO delegates from convening, the situation on the streets turned ugly. Following a meeting with federal, state, and local law enforcement officials, Seattle's mayor declared a state of civil emergency and ordered Seattle police to move the protesters out of a twenty-five-square-block area of downtown. As seen worldwide on the Cable News Network, the largely peaceful protesters were met with a brutal assault by more than 500 Seattle riot police dressed in full battle gear, who used clubs, tear gas, pepper spray, rubber bullets, flash grenades, armored personnel carriers, and mass arrests to disperse the crowd and create a no-protest zone in the center of the city. What began on 30 November as a largely peaceful effort to shut down the WTO Ministerial Conference ended on 3 December with more than 600 protesters in jail and the city of Seattle ruled by martial law.[3] For its part, the launch of a new global trade round was temporarily put on hold.[4]

At the core of what became known as "the battle in Seattle" was a political problem that has plagued American foreign trade politics ever since the United States assumed the mantle of global economic leadership at the end of World War II: a deep and unresolved tension between the promotion of an open international trading system and the operations of the nation's democratic domestic political regime. The idea that a tension exists between America's postwar efforts to construct an open world trading system and the nation's democratic domestic political regime is not new. Indeed, scholars have identified this tension as the source of critical issues in American politics and international relations for more than five decades.[5] However, most of the attention has focused

[2] It is interesting to note that the views of the Seattle protesters were shared by a substantial number of Americans. According to a study by the Program on International Policy Attitudes (PIPA) regarding Americans' feelings about freer trade and the WTO: "Americans' views of international trade are complex and cannot be explained as a simple preference for free trade or protectionism. . . . Americans show strong concern that, though trade has benefited business and the wealthy, it has not benefited American workers and has widened the gap between rich and poor. Americans also show concern that trade has been harmful to the environment, to international labor standards, and to poor countries." Accessed on the website of PIPA at www.americans-world.org/digest/global_issues/intertrade/summary.cfm, 30 January 2004.

[3] National Lawyers Guild, Seattle Chapter, *Bringing in an Undemocratic Institution Brings an Undemocratic Response* (Seattle: National Lawyers Guild 2000).

[4] A new global trade round was successfully launched in 2001 in Doha, Qatar, which, due to its out-of-the-way location and restrictive visa processes, saw little civil society presence.

[5] Stanley Hoffman, ed., *Gulliver's Troubles; or, the Setting of American Foreign Policy* (New York: McGraw Hill, 1968), 87–213; William Y. Elliot, *The Political Economy of American Foreign Policy* (New York: Henry Holt and Co., 1955), 362–382; Norman S. Buchanan and Friedrich A. Lutz, *Rebuilding the World Economy* (New York: Twentieth Century Fund, 1947), 293–315.

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on how America's domestic democratic regime has interfered with the exercise of world economic leadership.[6] Little attention has been paid to how the exercise of world economic leadership has affected the organization of American democracy.

This article examines the impact of world economic leadership on American democracy within the sphere of foreign trade politics since World War II. It argues that the promotion of an open world trading system has required a fundamental reorganization of state power within the foreign trade policy–making process that has subordinated domestic economic and political concerns to matters of global economic management. This reorganization of power has provided the political and institutional foundations for a national policy of freer trade dedicated to the creation, maintenance, and expansion of a supranational regulatory authority designed to manage trade liberalization on a worldwide basis: the General Agreement on Tariffs and Trade (GATT), and its successor, the WTO. I refer to this globally oriented national policy as "world trade leadership." The chief institutional feature of this policy has been the centralization of state power within the foreign trade policy–making process. This centralization of power has taken the form of a transfer of foreign trade policy–making authority from Congress to the president, and from the American state to the GATT/WTO. Stated more formally, the independent variable in this analysis is the exercise of world trade leadership; the dependent variable is the centralization of state power within the foreign trade policy–making process—a phenomenon I call the "triumph of globalism." The argument presented in this essay is *not* that the foreign trade policy–making process has become less democratic; rather, the democratic process itself has been *reorganized* in such a way as to elevate global issues and concerns over domestic ones.

The triumph of globalism in postwar American foreign trade politics is not simply a matter of academic concern. It has far-reaching implications for American democracy as well, for as trade-related global economic and political forces have had a growing impact on the United States, the political capacity of American citizens to harness national state power to deal with them at the domestic level has declined.

This essay begins with the definition of the terms *foreign trade policy, world trade leadership*, and *democracy*, which will serve as an overview for the essay's

[6] See, for example, Michael Mastanduno, "The United States Political System and International Leadership: A 'Decidedly Inferior' Form of Government" in G. John Ikenberry, ed., *American Foreign Policy: Theoretical Essays*, 2nd ed. (New York: Harper Collins, 1996); Robert L. Paarlberg, *Leadership Abroad Begins at Home: U.S. Foreign Economic Policy After the Cold War* (Washington DC: The Brookings Institution, 1995); Patrick Low, *Trading Free: The GATT and U.S. Trade Policy* (Washington DC: Twentieth Century Fund, 1993); I. M. Destler, *American Trade Politics: System Under Stress* (Washington DC: Institute for International Economics, 1986); Stephen D. Krasner, "United States Commercial and Monetary Policy: Unraveling the Paradox of External Strength and Internal Weakness" in Peter J. Katzenstein, ed., *Between Power and Plenty: Foreign Economic Policies of Advanced Industrial States* (Madison: University of Wisconsin Press, 1978).

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main argument. Next, I turn to a historically grounded investigation of the triumph of globalism in four crucial case studies. This is followed by a consideration of the impact of the triumph of globalism on American domestic politics since the formation of the WTO in 1995. Finally, I bring these themes together to suggest that there is firm, empirical support for the study's main hypothesis: the triumph of globalism in American foreign trade politics has rested on a centralization of the foreign trade policy–making process—a phenomenon that has given pride of place to global concerns over domestic ones.

Triumph of Globalism: Defining Terms

Before proceeding to an empirical demonstration of the impact of world trade leadership on the exercise of democracy within the foreign trade policy–making process, it is necessary to define three terms: *foreign trade policy; world trade leadership*; and *American democracy.*

Foreign Trade Policy

Since World War II, America's exercise of world trade leadership has required the adoption of a foreign trade policy designed to promote the development of the GATT/WTO regime. A nation's foreign trade policy sets the political rules that regulate the relationship between a nation's economy and the world economy with respect to the cross-border exchange of goods, services, intellectual property rights, and trade-related investment measures. As is the case with taxes and the military, foreign trade policy has been a constituent feature of modern states since they emerged during the long-sixteenth century in Europe.[7] This is because foreign trade policy concerns one of the enduring features of states: the regulation of the interface between the internal and external realms.[8] With respect to foreign trade, this regulation concerns state–market–citizen relationships at the intersection of the domestic and world economies. A foreign trade policy that opens a nation's economy to global market forces is traditionally referred to as liberal; a policy that closes a nation's borders is traditionally called protectionist. Because it regulates the boundaries between the national and world economies, a nation's foreign trade policy also affects citizen–market relationships. It does so by increasing or decreasing the exposure of a nation's domestic economy—and hence citizens and society—to global market forces. A liberal foreign trade policy tends to increase the sway of global market forces in domestic society, while a protectionist policy tends to decrease their significance. Since World War II, American foreign trade policy has been broadly liberal—it has aimed at the withdrawal of the American state from the regula-

[7] See Charles Tilly, *Coercion, Capital, and European States, AD 990–1992* (Cambridge, MA: Blackwell, 1994); and Immanuel Wallerstein, *The Modern World System I: Capitalist Agriculture and the Origins of the European World Economy in the Sixteenth Century* (New York: Academic Press, 1974).

[8] J. P. Nettl, "The State as a Conceptual Variable," *World Politics* 20 (4) 1968: 559–592.

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tion of cross-border trade flows. It has done so, moreover, with an eye toward establishing a supranational regulatory authority for the management of trade liberalization on a worldwide basis: the GATT/WTO.

As a practical matter, America's exercise of world trade leadership has required the enactment of a series of legislative statutes that have reorganized foreign trade policy–making power within the American state. At the core of these statutes has been Congressional authorization for the president to enter into binding international trade agreements. The need for these statutes is rooted in the constitutional design of the American state. While Article II Section 2 of the Constitution gives the president the power to enter into international agreements, Article I Section 8 grants Congress the power to "regulate commerce with foreign nations."[9] Thus, in order for the president to enter into international agreements affecting "commerce with foreign nations," the chief executive must persuade Congress to delegate its Article I Section 8 powers to the president.

World Trade Leadership

Since World War II, the United States has played a distinctive role within the world economy and international state system as rallier of nations in support of global free trade—a role I refer to as "world trade leadership." America's exercise of world trade leadership has focused on the construction of an open international trading system—a system within which global market forces, rather than state power, determine international trade flows. The foremost objective of this system has been to encourage high levels of global economic growth by increasing the productivity of capital, labor, and agriculture on an international basis. The idea that free trade encourages global economic growth by enhancing productivity is taken as an article of faith by the three major schools of international political economy: liberalism, Marxism, and mercantilism. Indeed, although David Ricardo, Karl Marx, and Fredrick List disagreed profoundly on the distributive and political consequences of free trade, they were one in contending that open global markets provided the best political conditions for the operation of capital on a worldwide basis; specifically, by rationalizing the global division of labor, leading to productivity gains on an international basis.[10]

America's exercise of world trade leadership has centered on the construction of an international regime for freer trade: GATT, and its successor, the WTO. At the core of this regime is an elaborate set of rules for the manage-

[9] U.S. Const. art. I, sec. 8.

[10] See David Ricardo, *The Principles of Political Economy and Taxation* (Amherst, NY: Prometheus Books, 1996), 89–104; Karl Marx, "On the Question of Free Trade," speech delivered to the Democratic Association of Brussels on 9 January 1848 in Karl Marx and Fredrick Engels, *Collected Works*, vol. 6 (New York: International Publishers, 1976); and Friedrich List, *The National System of Political Economy, Volume II, The Theory* (New York: Augustus M. Kelley, 1966), 6–21.

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ment of international trade. These rules, negotiated among members of the regime, are treaty obligated; violating them is tantamount to a violation of international law. The most important of these rules stress trade barrier reduction on a multilateral basis and nondiscrimination in the treatment of imports.[11] Taken together, these rules are designed to roll back state intervention in international trading relationships and limit trade-impacting domestic policies that conflict with the rules of the international regime.

Institutionally, the development of the GATT/WTO regime has occurred through a series of international trade negotiations known as "rounds." Each of these rounds was initiated by the United States in an effort to bring more and more countries into the regime and to expand the scale and scope of global trade liberalization.[12] Since World War II, these rounds have resulted in a radical reduction in international trade barriers, a dramatic rise in the number of countries participating in the regime, and an expansion in the economic sectors, policies, and practices covered by international trade rules. Table 1 documents the expansion of the postwar world trading system through these rounds. Although economists differ as to the precise impact of these rounds on the expansion of international trade in the post-World War II era, there is widespread agreement that they have played a major role in the trade-related integration of national economies, as well as in global economic growth.[13]

American Democracy and Foreign Trade Politics

For the purpose of this study, democracy can be defined as the ensemble of institutions, rules, and procedures that link citizens to the state in the foreign trade policy–making process. The more decentralized and accessible these institutions, rules, and procedures are, the more open and accountable is the democratic policy-making process. Conversely, the more centralized and inaccessible these institutions, rules, and procedures are, the less open and accountable is the democratic policy-making process. If the institutional arrangements, rules, and procedures governing the foreign trade policy–making process remained unchanged over time, there would be little, if any, impact on democracy. But this has not been the case. Since World War II, when the United States assumed the mantle of world trade leadership, a profound change has occurred in the balance of power between the president and Congress at the domestic level and between the American state and the GATT/WTO regime at the global level. This change has made the foreign trade policy–making process less open and accountable to the citizens whose lives and livelihoods are affected by America's world trade leadership role.

[11] Jock A. Finlayson and Mark W. Zacher, "The GATT and the Regulation of Trade Barriers: Regime Dynamics and Functions" in Stephen D. Krasner, ed., *International Regimes* (Ithaca, NY: Cornell University Press, 1983).

[12] Patrick Low, *Trading Free: The GATT and US Trade Policy* (Washington DC: the Twentieth Century Fund, 1993).

[13] Jagdish Bhagwati, *Protectionism* (Boston, MA: MIT Press, 1988), 1–15.

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TABLE 1

Growth of the International Trading System—GATT Trade Rounds

Year	*Round*	*Subjects*	*Countries*
1947	Geneva	Tariffs on goods	23
1949	Annecy	Tariffs on goods	13
1951	Torquay	Tariffs on goods	38
1956	Geneva	Tariffs on goods	26
1960–61	Dillion	Tariffs on goods	26
1964–67	Kennedy	Tariffs on goods	62
1973–79	Tokyo	Tariffs on goods	102
		Nontariff barriers*	
1986–94	Uruguay	Tariffs on goods	123
		Nontariff barriers**	
		Agriculture	
		Investment	
		Services***	
		Intellectual property rights****	
		Binding dispute settlement process	

Source: World Trade Organization, *Trading into the Future*, 2nd ed. (Geneva: WTO, 1999).

* *Subsidies; Anti-Dumping Practices; Countervailing Duties; Technical Barriers to Trade;* Import Licensing Procedures; Government Procurement.

** Subsidies; Anti-Dumping Practices; Countervailing Duties; Technical Barriers to Trade; Import Licensing Procedures; Government Procurement; Sanitary and Phytosanitary Measures; Rules of Origin; Safeguards.

*** Movement of Natural Persons; Financial Services; Maritime Transport Services; Basic Telecommunications; Professional Services.

**** Copyrights; Trademarks; Geographical Designs; Patents; Layout Designs of Integrated Circuits; Protection of Undisclosed Information; Anti-Competitive Practices in Services Contracts.

If Congress and the president were similar institutions, or if the representation of citizen interests were the same at the domestic and global levels, this shift of foreign trade policy–making power would have little affect on democracy. However, Congress and the president are radically different institutions, and the representation of citizen interests is profoundly different in the domestic and international realms.

The most significant differences between the president and Congress that affect citizen–state relationships are the institutions' orientations to the domestic and international realms as well as their internal political structures. Max Weber once said that "as structures of power, political organizations vary in the extent to which they are turned outward";[14] and within the American state it is the president—rather than Congress—which is externally oriented. Within the constitutional system, the president's external orientation is rooted in the chief executive's expressed powers to wage war, enter into international negotiations, make binding international agreements, appoint and receive ambassa-

[14] Max Weber, *Economy and Society*, vol. 2 (Berkeley: University of California Press, 1968), 910.

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dors, and recognize foreign governments.[15] These expressed powers are reinforced by the president's claim to possess inherent constitutional powers to function as the sole representative of the United States as a sovereign and unified actor at the level of international politics—a claim given constitutional legitimacy by the Supreme Court in its 1936 *Curtiss-Wright* decision.[16]

The president's external orientation is buttressed by its centralized political structure, which facilitates foreign policy coherence and consistency, a unified national viewpoint, and the ability to act with secrecy and dispatch. Although conflicts exist within the executive branch between competing bureaucracies, agencies, and personnel, it is the president who sits at the apex of the policy-making process.[17] The centralized political structure of the executive branch is rooted in the president's institutional role as chief executive, head of state, and the fact that the president is elected on a nationwide basis.

In contrast to the president, Congress is a profoundly decentralized institution with a domestic political orientation. The decentralized organization of Congress is principally rooted in its fragmented electoral design. Whereas the president is elected nationally and constitutes a single electoral system, members of Congress are elected from subnational political units (states and congressional districts) comprising 535 separate electoral systems: 100 in the Senate and 435 in the House of Representatives. The decentralized character of Congress is reinforced by the division between the Senate and the House, a committee system that fragments policy into functional issue areas, and a weak party system that results in strong constituency ties and weak leadership sanctions over members.[18]

The domestic political orientation of Congress flows principally from its decentralized political structure. Whereas the president is in the position to raise claims to represent the United States as a single political unit at the international level, individual members of Congress are not. Members of Congress are elected to represent local constituencies and issues, and although individual members may develop a national perspective and foreign policy expertise, they are usually expected to cater to their local constituency as well—regardless of national or foreign policy consequences.[19] Moreover, although the Constitution

[15] See Edward S. Corwin, *The President: Office and Powers*, 5th rev. ed. (New York: New York University Press, 1984); Richard M. Pious, *The American Presidency* (New York: Basic Books, 1979); and Louis W. Koenig, *The Chief Executive* (New York: Harcourt Brace Javanovich, Inc., 1975).

[16] Joan Biskupic and Elder Witt, *The Supreme Court & the Powers of the American Government* (Washington DC: Congressional Quarterly, Inc., 1997), 189.

[17] Thomas E. Cronin, *The State of the Presidency* (Boston, MA: Little, Brown and Co., 1980); and Clinton Rossiter, *The American Presidency* (Baltimore, MD: The Johns Hopkins University Press, 1960).

[18] Roger H. Davidson and Walter J. Oleszek, *Congress and Its Members*, 3rd ed. (Washington DC: Congressional Quarterly, Inc., 1990); Randall Ripley, *Congress: Process and Policy*, 3rd ed. (New York: W. W. Norton and Company, 1983); and David R. Mayhew, *Congress: The Electoral Connection* (New Haven, CT: Yale University Press, 1974).

[19] Walter J. Oleszek, *Congressional Procedures and the Policy Process* (Washington DC: Congressional Quarterly, Inc., 1989); Richard E. Fenno, *Home Style: House Members in their Districts* (Boston, MA: Little, Brown, and Co., 1978); and Lewis A. Froman, *Congressmen and Their Constituencies* (Chicago, IL: Rand McNally and Co., 1963).

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grants the Senate the power to ratify treaties and vote on the president's ambassadorial appointments, the House of Representatives does not participate in this process; nor do any members of Congress possess constitutional authority to represent the nation as a single unit in foreign affairs.

The institutional organization of the president and Congress has important consequences for citizen–state relationships in the sphere of foreign trade politics at the domestic level. On the one hand, the president's outward orientation and centralized political structure make the chief executive comparatively more attuned to the needs of American citizens with global economic and political interests and more insulated from domestic politics.[20] On the other hand, the inward orientation of Congress and its decentralized political structure make it comparatively more responsive to American citizens with domestic economic and political concerns and considerably more removed from global politics than is the president. Indeed, the Framers of the Constitution sought to create such differences between the branches and the representation of citizen interests in domestic politics.[21]

The delegation of Congress's Article I Section 8 authority to the president makes possible a related shift of power that further alters citizen–state relationships. This shift occurs when the president negotiates and implements international trade agreements within the GATT/WTO regime. The negotiation of these agreements severs the citizen–state relationship almost completely. It does so by moving the foreign trade policy–making process from the national level, where citizen–state relationships are constituted, to the realm of global politics, where the operative political relationships are state-to-state. The GATT/WTO regime is an agreement among sovereign states and operates entirely beyond the bounds of citizen–state relationships. Indeed, the regime contains no provisions for the direct representation of citizen interests within its deliberations. It is left up to individual states to decide for themselves how (or if) their negotiating positions will represent the interests of their citizens, or which citizen interests (if any) will be represented. Furthermore, because the GATT/WTO regime operates at the level of state-to-state relationships, the myriad international trade agreements upon which it rests are placed in a "locked box" outside

[20] It may be argued that if the president is responsive to the demands of domestic public opinion, the institutional shift of power between Congress and the chief executive may not affect the character of American democracy. However, a large body of literature exists that belies this interpretation. First, the relationship between public opinion and how elected officials form their policy preferences is complex; indeed, often a relationship is difficult, if not impossible to find. Second, elected officials, and the president in particular, are in the position to *shape* public opinion—and they often do. Third, the capacity of the president to operate independently from public opinion, and to shape the public's perception of presidential actions, is most pronounced in the field of foreign policy, including foreign trade policy. Finally, presidential independence from and manipulation of public opinion has been well documented in the field of foreign trade policy itself. See, for example, Raymond A. Bauer, Ithiel de Sola Pool, and Lewis A. Dexter, *American Business and Public Policy* (Chicago, IL: Aldine, Atherton, Inc., 1963); and John R. MacArthur, *The Selling of "Free Trade"* (New York: Hill and Wang, 2000).

[21] Clinton Rossiter, ed., *The Federalist Papers, Nos. 46, 50,* and *74* (New York: Mentor, 1961).

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the realm of domestic politics. As sovereign states, members of the GATT/WTO regime possess the power to backtrack on their international commitments; doing so, however, is a violation of international law, is likely to undermine their credibility in future negotiations, and may lead to regime-authorized economic sanctions. Furthermore, in the special case of the United States, failing to adhere to its regime commitments poses an additional threat: it endangers America's self-appointed world trade leadership role.

Triumph of Globalism: Historical Evidence

It remains to be shown that the exercise of world trade leadership has resulted in the centralization of state power within American foreign trade politics and in a shift in policy-making power from domestic to global levels. To demonstrate this relationship, I adopt a case study approach that focuses on America's initiation of the four most significant postwar international trade rounds and their impact on the nation's foreign trade policy–making process.

Since World War II, there have been eight international trade rounds, each initiated by the United States. Yet scholars of the postwar world trading system generally agree that four of these rounds marked watersheds in the development of the GATT/WTO regime:[22] the first Geneva Round (1947); the Kennedy Round (1964–1967); the Tokyo Round (1973–1979); and the Uruguay Round (1986–1994). America's participation in each of these watershed trade rounds required the enactment of a foreign trade statute delegating Congress's Article I Section 8 powers to the president. These foreign trade acts were: the Reciprocal Trade Agreements Act (RTAA) of 1945; the Trade Expansion Act (TEA) of 1962; the Trade Act (TA) of 1974; and the Omnibus Trade and Competitiveness Act (OTCA) of 1988. The enactment of these statutes represented critical choice points in American foreign trade politics that involved a trade-off between the exercise of world trade leadership and the operation of democracy.[23]

[22] John Croome, *Reshaping the World Trading System: A History of the Uruguay Round* (Geneva: World Trade Organization, 1995); Ernest H. Preeg, *Traders in a Brave New World: The Uruguay Round and the Future of the International Trading System* (Chicago, IL: University of Chicago Press, 1995); Low, *Trading Free*; Miriam Camps and William Diebold, Jr., *The New Multilateralism: Can the World Trading System be Saved?* (New York: Council on Foreign Relations, 1986); Gilbert R. Whinham, *International Trade and the Tokyo Round Negotiation* (Princeton, NJ: Princeton University Press, 1986); and Ernest Preeg, *Traders and Diplomats: An Analysis of the Kennedy Round of Negotiations Under the General Agreement on Tariffs and Trade* (Washington DC: The Brookings Institution, 1970).

[23] It is important to point out that in all these instances, a majority of members of Congress *supported* granting the president increased policy-making powers. The question as to why Congress would go along with this institutional reorganization is the subject of heated debate among students of postwar American foreign trade politics. For an excellent overview of this debate, see Sharyn O'Halloran, *Politics, Process, and American Trade Policy* (Ann Arbor: University of Michigan Press, 1994). Furthermore, it might be asked, as a counterfactual, what Congress might have done had it not been constrained by the exercise of world trade leadership. The specialist literature on postwar American foreign trade politics suggests that absent one or a combination of factors at the international and/or domestic (state and society) levels, the domestic political orientation of Congress and its fragmented internal organization would have led to some form of economic nationalism, with protectionism and managed trade at

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Because these acts were critical choice points, they constitute what Harry Eckstein calls "crucial cases." As Eckstein explains: "The essential abstract characteristic of a crucial case can be deduced from its function as a test of theory. It is a case that *must closely fit* a theory if one is to have confidence in the theory's validity, or, conversely, *must not fit* equally well any rule contrary to that proposed."[24] Thus, the argument that the exercise of world trade leadership has required a reorganization of American democracy within the sphere of foreign trade politics and the transfer of foreign trade policy–making authority from the domestic to the global levels must be confirmed in these cases in order to have confidence in this hypothesis.

The selection of these crucial cases is justified on methodological grounds as well. First, selecting a small number of cases allows for more in-depth examination of changes in the institutional organization of the foreign trade policy–making process. Furthermore, the fact that these cases are spread across the whole postwar period allows us to view these institutional changes as they developed over time, which facilitates comparative analysis of these changes as America's exercise of world trade leadership moved forward.

The analysis of each of the four major trade acts is divided into three parts: what was the global objective of the legislation; how did the legislation alter the relationship between Congress and the president; and how did the legislation affect the relationship between the American state and the GATT/WTO regime—specifically, what were the domestic political and economic policy consequences of the implementation of the new trade law within the context of an expanding international trading system?

Case I: The RTAA of 1945 and the Geneva Round

Global Objective. The RTAA of 1945 marked the first major assertion of American world trade leadership in the postwar era. The basic goal of the act was to allow the United States to use its enormous global economic power in the immediate aftermath of World War II to build a new international trading system to complement its creation of a new international monetary order as well as its reconstruction efforts in western Europe and Japan.

Domestic Institutional Reorganization. It was under the authority of the RTAA of 1945 that the United States launched the GATT.[25] Although the stat-

its center. The classic study of Congress acting on its own in the foreign trade policy–making process is E. E. Schattschneider, *Politics, Pressures, and the Tariff: A Study of Free Private Enterprise in Pressure Politics, as Shown in the 1929–1930 Revision of the Tariff* (New York: Prentice-Hall, 1935).

[24] Harry Eckstein, "Case Study and Theory in Political Science" in Fred I. Greenstein and Nelson Polsby, eds., *Handbook of Political Science*, vol. 7 (Reading, MA: Addison-Wesley Publishing Company, 1975), 118.

[25] John H. Jackson, "The General Agreement on Tariffs and Trade in United States Domestic Law," *Michigan Law Review* 66 (1967): 249–322.

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utory language of the RTAA of 1945 was similar to that of the first RTAA (passed in 1934), its purpose was entirely different. As Assistant Secretary of State William Clayton put it to the House Ways and Means Committee:

> I believe all of us would profit from an effort to look at this bill, not in terms of what we thought about reciprocal trade agreements in 1934, 1937, 1940, and 1943, but as a new instrument for use in the world of tomorrow. For it is, in fact, a new instrument—made so not by new language, but by a new world. Those who judge the trade agreements program solely in the context of its prewar operation are likely to miss the new and portentous meaning of this idea. . . . [B]efore the war the trade agreements program was an instrument for defense against an epidemic of destructive and demoralizing trade warfare. Today, with the end of the great holocaust finally within sight, this same instrument is transformed into a powerful device for shaping a better world.[26]

At the core of the RTAA of 1945 was authorization for the president to use Congress's Article I Section 8 powers to "regulate commerce with foreign nations" for a period of three years.[27] During that time, the president was empowered to enter into binding international trade agreements allowing cuts in America's tariff rates by up to 50 percent of their 1945 levels. The president was further empowered to use his administrative authority as chief executive to make these agreements and their tariff rate changes part of America's domestic law through *proclamation*—that is, without further Congressional authorization. Furthermore, the act gave the president the sole power to decide what manufactured products would be subject to international negotiation, under what terms the negotiations would be conducted, and the extent to which tariffs would be cut. Although the act required the president to give "reasonable public notice of the intention to negotiate" and to take the views of interested parties and the Departments of Treasury, State, Navy, and War into account, it empowered him to devise whatever administrative process he wanted for carrying out the powers in the act. What is more, the president was not bound by the views he received from the public, Congress, or executive branch bureaus or agencies.

State–GATT Relations. Although Congress authorized the president to reduce U.S. tariffs by 50 percent and to enter into international trade agreements to do so, the president was *not* authorized to use this grant of power to launch the GATT. As a result, the Truman administration launched the GATT and committed the United States to its binding rules and regulations by executive agreement, using the president's constitutional powers as chief of state to enter into such agreements without Congressional assent. The chief means to this end

[26] Testimony of William A. Clayton. U.S. Congress, House Committee on Ways and Means, *1945 Extension of Reciprocal Trade Agreements Act: Hearings before the Committee on Ways and Means*, HR 2652, 79th Cong., 1st sess. April, 1945, 14–15.

[27] *The Reciprocal Trade Agreements Act, 1945*, Public Law 79-130, 59 Stat. 410.

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run around Congress was a specially designed legal instrument, the Protocol of Provisional Application. Rather than setting up the GATT as a full-fledged international organization comprised of members, the global trade authority was negotiated and entered into in the form of a provisional international agreement comprised of Contracting Parties. Although the GATT was not legally binding on Congress, it *was* legally binding on the president, which, in light of the president's control of foreign trade policy, was tantamount to binding American foreign trade policy to the new international regime.

In addition to launching the GATT, the Truman administration used the RTAA of 1945 to enter into international trade agreements with twenty-two countries, leading to an overall average cut in U.S. tariffs of about 35 percent of 1945 levels. Through the use of executive agreements, these tariff cuts were bound at the international level within the framework of the GATT, which effectively removed them from further domestic consideration.

Case II: The TEA of 1962 and the Kennedy Round

Global Objective. The second major assertion of American world trade leadership came with the TEA of 1962, which authorized the president to use Congress's Article I Section 8 powers to initiate the Kennedy Round of Multilateral Trade Negotiations.[28] The TEA was the first foreign trade act of the postwar era that moved beyond the framework of the RTAA of 1945. It marked the greatest expansion of presidential power within the foreign trade policy–making process since the RTAA of 1945.[29] The chief global objective of the act was to respond to a major change in the structure of the world trading system: the emergence of the European Economic Community (EEC) as an international trading power. The TEA and the Kennedy Round were designed to steer the EEC toward a low-tariff, GATT-centered foreign trade policy.

Domestic Institutional Reorganization. The statutory core of the TEA was Title II, which gave the president unprecedented power to negotiate trade agreements and lower American tariffs. Section 201 of Title II declared that

> whenever the President determines that any existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States . . . the President may proclaim such modifications of existing duties and other import restrictions . . . as he determines to be required or appropriate to carry out any such trade agreement.[30]

[28] *The Trade Expansion Act, 1962*, Public Law 87-794, 76 Stat. 1962.

[29] Jackson, "The General Agreement on Tariffs and Trade," 249–322; and Harry C. Hawkins and Janet L. Norwood, "The Legislative Basis of U.S. Commercial Policy" in William B. Kelly, Jr., ed., *Studies in United States Commercial Policy* (Chapel Hill: University of North Carolina Press, 1963).

[30] Public Law 87-794, Section 201.

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This section, and Section 202, authorized the president for five years to reduce American tariffs by up to 50 percent of 1962 rates and to reduce to zero any rate of duty of 5 percent or less. Chapter 2 of Title I was even more sweeping in scope. It granted the president special tariff-cutting authority in the case of any trade agreement with the EEC in which the combined EEC and U.S. share of world exports was 80 percent or more. This measure was designed, in part, to entice England into the EEC, inasmuch as it was only with the addition of England that the combined U.S.–EEC total would reach the 80 percent threshold in most industrial sectors.[31] In each case, the president was empowered to decide how much rates should be reduced and the methodology for determining the 80 percent threshold. The act also gave the president the authority to negotiate on a sector-by-sector basis (rather than item-by-item, as under prior trade acts). This sector-by-sector approach allowed the president to aggregate many small items into general categories and then negotiate tariff reductions on those sectors as a whole. This greatly increased the efficiency of international negotiations, the task of determining rates, and the administration of trade policy after rates had been cut.[32]

State–GATT Relations. The Johnson administration used the TEA and the Kennedy Round to expand the reach of the GATT trading system. Again, this was done through the use of executive agreements and was not authorized by Congress. In fact, in the course of the debate on the TEA, Congress explicitly stated that passage of the act *was not* an endorsement of the GATT system.

The Kennedy Round resulted in international trade agreements among sixty-two countries, including the United States, and an overall reduction in America's tariff of about 35 percent. It also eliminated most duties of 5 percent or less. These tariff cuts were bound within the framework of the GATT, which effectively removed them from the sphere of domestic trade politics. Although the special EEC authority was never used (England failed to join the EEC by the end of the round), by the time the Kennedy Round tariff cuts took full effect, tariffs among industrial countries no longer posed a significant barrier to trade, and U.S. tariffs stood at their lowest level in history—about 8 percent.

Case III: The TA of 1974 and the Tokyo Round

Global Objective. The third major assertion of American world trade leadership came with the TA of 1974, which allowed the president to launch the Tokyo Round of Multilateral Trade Negotiations. At the core of the TA was a new delegation of Congress's Article I Section 8 powers to the president for a period of five years.[33] Specifically, the president was authorized to reduce America's

[31] Congressional Quarterly, *Special Report: The Trade Expansion Act of 1962* (Washington DC: Congressional Quarterly Press, 1962).

[32] Ibid.

[33] *Trade Act, 1974*, Public Law 93-618, 88 Stat. 1978.

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tariffs by up to 60 percent of 1975 rates, cut rates of 5 percent or less to zero, and proclaim these reductions without returning to Congress. The main objective of the act was to respond to a major structural change in the world trading system: the emergence of Japan as an economic superpower. The TA and the Tokyo Round were designed to deepen Japan's integration into the GATT regime, to encourage Japan to adopt an outward-looking, GATT-centered foreign trade policy, and to continue to steer the EEC toward an open foreign trade policy within the framework of the GATT.

Domestic Institutional Reorganization. The most significant aspect of the TA was its authorization for the president to negotiate on nontariff trade barriers. Section 102 urged the president to take all "appropriate and feasible" steps within his power to "harmonize, reduce, or eliminate" nontariff trade barriers or other distortions of international trade. In granting this blanket authority, Congress made clear that American nontariff trade barriers were to be placed on the international negotiating agenda as well. Because nontariff trade barriers are any barriers to trade, this was a remarkable grant of policy-making power. In effect, it authorized the president to independently and unilaterally survey the entire American economy and regulatory landscape to determine what was and what was not a nontariff barrier to trade, engage in negotiations with foreign countries with an eye toward making changes in American domestic law, and enter into international agreements committing the United States to make such changes. Although the act required the president to consult with appropriate Congressional committees prior to signing a nontariff trade barrier agreement and to transmit these agreements to Congress for nonbinding review, the only point in the process where Congress actually had the opportunity to block presidential action came with the implementing legislation.

Nontariff trade barrier agreements did not become binding on the United States until Congress enacted legislation making the changes in U.S. domestic law required by the agreement. (If the changes applied solely to administrative rules and regulations, the president was allowed to implement agreements unilaterally.) Although Congress reserved the right to approve or reject nontariff trade barrier agreements that required changes in U.S. domestic law, the national legislature agreed to a process of implementation that radically enhanced the chances for *enactment*: the so-called "fast-track" procedure.

The central purpose of fast track was to make it difficult for Congress to reject a nontariff trade barrier agreement negotiated by the president.[34] Under

[34] Harold H. Koh, "The Fast Track and United States Trade Policy" in *Brooklyn Journal of International Law* XVIII (1992): 143–180. The fast-track procedure also was designed to circumvent the constitutionally stipulated process for implementing international treaties. According to the Constitution, international treaties only become binding on the United States if they secure a two-thirds supermajority in the Senate. Although international trade agreements have the status of treaties at the level of international law, since World War II, Congress, the president, and the Supreme Court have consistently held that simple majority votes in both houses of Congress are sufficient to implement international trade agreements.

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fast track, Congress bound itself to an expedited process for considering legislation implementing these agreements. Most significantly, Congress was not allowed to amend legislation implementing these agreements; it had only sixty days in which to review the legislation before voting on it; and once a motion to vote on a bill was accepted, the House and Senate were allowed only twenty hours of floor debate on the measure. The final vote on a bill was simply up or down.[35]

The fast-track procedure further enhanced presidential power by allowing the chief executive to bundle all trade agreements into a single "implementing bill." This meant that Congress was forced to consider all trade agreements and the changes they made in U.S. domestic law as a single package. Voting down a single agreement while accepting others was not an option: all of the agreements stood or fell together. This bundling process put Congress in the unenviable position of voting for or against the work of an entire international trade round—rather than on the substance of specific trade agreements. Because the vote came after the conclusion of years of detailed international negotiations, often involving complex compromises, and to which the president had given his seal of approval, Congress essentially was presented with a *fait accompli.*[36]

State–GATT Relations. The Tokyo Round resulted in international trade agreements among 102 countries. (In the TA of 1974, Congress finally included language expressing support for the GATT.) The Tokyo Round resulted in tariff reductions of about 35 percent. These reductions were bound within the framework of the GATT, which removed them from the sphere of domestic politics. The round also produced a number of agreements that established international rules for the global management of a range of nontariff trade barriers. These agreements, too, were bound at the international level and placed within the administrative purview of the GATT. They included domestic antidumping rules, subsidies and countervailing duties, government procurement practices, methods of customs valuation, technical standards, and import licensing.

Case IV: The OTCA of 1988 and the Uruguay Round

Global Objective. The fourth major assertion of American world trade leadership came with the OTCA of 1988, which authorized the president to use Congress's Article I Section 8 powers to negotiate trade agreements within the

[35] Public Law 93-618, Chapter 5, Section 151.

[36] The Trade Act's fast-track authority was used to implement the Tokyo Round of Multilateral Trade Agreements, which were submitted to Congress by the president in the Trade Agreements Act (TAA) of 1979. While substantial political controversy surrounded the enactment of the TAA, the fast-track procedure worked well, contributing to overwhelming bipartisan support for the implementing legislation, which passed the Senate 90–4 and the House 395–7. See I. M. Destler, *American Trade Politics*, 2nd ed. (Washington DC: Institute for International Economics, 1992), 74–75.

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framework of the Uruguay Round of Multilateral Trade Negotiations.[37] The principal goals of the OTCA were to expand GATT disciplines to cover new sectors of the global economy, institutionalize a new dispute settlement system within the GATT, strengthen the GATT's operational machinery, and further liberalize trade in traditional areas such as tariffs and quotas. The OTCA also was designed to move international trade rules deeper into the domestic regulatory regimes of GATT members. This goal reflected the success of decades of trade liberalization and global economic integration, which expanded the range of domestic policies and practices affecting international trade flows.

Domestic Institutional Reorganization. The OTCA granted the president the power to reduce U.S. tariffs by up to 50 percent of their prevailing rates and to implement tariff changes through proclamation for a period of five years. Tariffs of 5 percent or less could be eliminated entirely. The president also was granted new open-ended authority to negotiate on nontariff trade barriers, subject to Congressional consideration on a fast-track basis. The OTCA granted the president fast-track authority for three years, after which he was authorized to request an additional two-year extension from Congress. While this "reverse fast-track" provision required the president to request an extension of fast-track authority, the OTCA established rules that made it difficult for Congress to deny the request. Under these rules, the vote on fast-track extension was a vote to *disapprove* the new authority; in other words, the president would be allowed to retain fast-track authority unless Congress voted to take it away. Furthermore, Congressional consideration of a "disapproval resolution" was itself subject to fast-track rules, which streamlined Congressional procedures, limited floor debate, prohibited amendments, and, generally, made disapproval difficult. All the president was required to do to retain his authority for a full five years was to certify to Congress that, despite progress in the negotiations, more time was needed to conclude them.[38] Although the president's tariff and nontariff trade barrier negotiating authority was subject to a number of consultation procedures with Congress, none of them were binding. As in the past, the president was given full authority to formulate U.S. foreign trade policy and to negotiate on tariff and nontariff trade barriers as he saw fit. While the president was required to receive advice from executive branch bureaus and agencies, interested Congressional committees, and the private sector, this advice was on a take-it-or-leave-it basis.

[37] *The Omnibus Trade and Competitiveness Act, 1988*, Public Law 100-418, 102 Stat. 1107.

[38] Public Law 100-418, Title I, Section 1103. The fast-track authority in the OTCA was used to implement the Uruguay Round of Multilateral Trade Agreements, which were submitted to Congress by the president in the Uruguay Round Agreements Act (URAA) of 1994. The enactment of the URAA generated even more-intense political battles than did the implementation of the Trade Agreements Act of 1979. Despite these battles, however, the fast-track process worked well, contributing to overwhelming bipartisan support for the measure in both houses of Congress.

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State–GATT Relations. The Uruguay Round resulted in binding international trade agreements among 123 countries and led to the most significant reform of the world trading system since World War II. Economically, the Uruguay Round moved well beyond the GATT's principal focus on trade in industrial goods and tariffs, producing new and unprecedented agreements covering agricultural policies, consumer health and safety laws, trade in services, trade-related investment measures, and intellectual property rights. The round also resulted in a wide range of agreements covering specific national trade policy practices and included a "built-in" agenda for further negotiations on basic telecommunication services, maritime transport services, movement of natural persons, financial services, subsidies, government procurement, safeguard measures, and professional services.[39] Furthermore, these agreements were retroactive: they applied to all preexisting national legislation.[40]

Politically, the round established a powerful new international organization to oversee world trade and enforce international trade rules, the WTO. The WTO replaced the GATT and, since 1995, has provided the institutional framework for the multilateral trading system. Under the GATT regime, the organization's governing body was weak and its system for settling disputes among the Contracting Parties lacked an adequate enforcement mechanism. The WTO was designed to remedy these problems and led to a "profound change in the legal structure of the institutions for world trade."[41] Perhaps the most significant institutional innovation of the WTO is its dispute settlement procedures, which provide an institutionalized process for the settlement of disputes among WTO members. If one or more WTO members believe that another member is violating their commitments under the Uruguay Round trade agreements, they can file suit in the WTO with a dispute settlement body (DSB). The DSB establishes ad hoc dispute settlement panels for each case; these are composed of individuals, chosen from a predetermined roster, who have demonstrated—through prior associations or actions—a commitment to trade liberalization and to the rules of the WTO.[42] The panel process itself is highly secretive. Panel hearings are held behind closed doors, only disputants (that is, governments) are allowed to attend, and the public is not represented. Panel deliberations and decisions are made in closed sessions, and the opinions ex-

[39] Ernest H. Preeg, *Traders and Diplomats in a Brave New World.*

[40] Under the GATT, trade agreements did not apply to inconsistent national legislation existing prior to the agreement; under the WTO, trade agreements do apply. See John H. Jackson, William J. Davey, and Alan O. Sykes, *Legal Problems of International Economic Relations*, 3rd ed. (Minneapolis, MN: West Publishing Company, 1995), 300–301.

[41] Ibid., 289.

[42] Because the WTO is designed to promote free trade, and manages international agreements designed to facilitate trade liberalization, this requirement should come as no surprise. One result, however, has been an overwhelming free trade bias in panel decisions. Indeed, according to one authority, approximately 90 percent of all panel decisions result in "full or partial victory" for the plaintiffs (i.e., those who allege breaches of WTO free trade agreements). Ibid., 339.

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pressed in panel reports are anonymous.[43] Furthermore, the decision of a dispute settlement panel is binding. It is automatically adopted sixty days after completion, unless there is a consensus among all WTO members (including the country that has won the panel decision) to reject the ruling, or the losing country files an appeal with a standing Appellate Body. In the case of an appeal, the Appellate Body has ninety days in which to uphold, modify, or reverse the legal findings and conclusions of the dispute settlement panel. If the Appellate Body rules that a member's action violates its commitments under the Uruguay Round Agreements, the defendant is ordered to change its action to bring it into conformity with its international obligations. If the member refuses, it faces economic sanctions.

Triumph of Globalism: The WTO in American Domestic Politics

To date, the triumph of globalism in American foreign trade politics has reached its zenith with the enactment of the Uruguay Round Agreements Act (URAA) of 1994.[44] The URAA made America's Uruguay Round commitments binding on the United States and was passed using the fast-track authority granted in the OTCA of 1988. The URAA elaborates a complex set of institutional rules and procedures that delineates the relationship between the president and Congress; the distribution of economic decision-making power between national, state, and local governments; and the institutional relationship between this domestic policy-making system and the operations of the WTO. It forms the basis of all WTO-centered U.S. trade policy today.

At the federal level, the URAA commits the United States to the WTO and its substantive trade agreements as a matter of domestic law. It also establishes the process through which the United States adheres to the dispute settlement procedures of the WTO. Here, the URAA binds the United States to decisions made by WTO dispute settlement panels regarding changes in regulatory rules and procedures at the national, state, and local levels. While the act states that the Senate Finance Committee and the House Committee on Ways and Means may vote to indicate their agreement or disagreement with a panel's ruling and the proposed contents of the final rule or other modification, it goes on to say that "*any such vote shall not be binding on the department or agency which is implementing the rule or other modification*" (emphasis added).[45] This clause officially denies these committees any power to actually alter the president's action.

[43] *Final Act of the Uruguay Round of Multilateral Trade Negotiations, Annex 2*, 353–377, accessed at www.wto.org/english/docs_e/legal_e.htm, 7 June 2005.

[44] *Uruguay Round Agreements Act of 1994*, Public Law 103-465.

[45] Public Law 103-465, Title I, Subtitle C, Section 123, Paragraph [g]. Although members of Congress have voiced concern about specific rules and regulations altered by executive branch bureaus and agencies under the URAA, this title and section have never been used to block executive branch action. Furthermore, even if it were so used, the URAA specifies that any such action is *not* binding on the president or other executive branch bureaus and agencies.

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With respect to state law, the URAA declares that one of its overriding objectives is to promote the conformity of state laws to WTO agreements and dispute settlement panel decisions. To this end, the act establishes statutory procedures that empower the president to play the role of national trade policy investigator and prosecuting attorney, identifying illegal breaches of the WTO at the state and local levels and then—if necessary—suing for compliance in federal court. Although the URAA establishes an elaborate federal–state consultation process that gives states an opportunity to participate in the formulation of policies that affect them, it denies them power to block executive branch action. This president-centered administrative system applies as well to the WTO dispute settlement process, which allows foreign nations to challenge the WTO legality of state and local laws and practices. In the event a state or local law or practice is found by the WTO dispute settlement process to violate WTO rules, it is the president, not the state, who controls the domestic political response. While Title I requires the president to consult with Congress whenever state laws become the object of a foreign trade dispute or negotiation, it gives Congress no power to block presidential action.

For all practical purposes, the only checks on the exercise of executive power under the URAA of 1994 are various nonbinding consultation provisions. Although the act does provide a mechanism through which Congress can withdraw the United States from participation in the WTO, this provision establishes extremely high legislative hurdles for withdrawal action to be taken.[46]

Since 1995, the impact of the WTO–URAA regime on American foreign trade policy making and domestic regulatory matters has been considerable. Between 1995 and 2005, the United States was a defendant in eighty-seven dispute settlement cases.[47] At the time of this writing, seventy-one of these cases had been resolved, and sixteen were still in the process of consultation, adjudication, or appeal. Of the seventy-one cases that had been resolved, the United States lost sixty-eight cases—*a loss rate of 97 percent.* Of the cases lost, the United States has implemented changes in its domestic laws and regulations in fifty-nine cases—*a compliance rate of 87 percent.* The majority of these cases involved changes in the administrative rules or practices used by various executive branch bureaus and agencies to implement laws democratically enacted by Congress. Because these cases involved administrative rule changes, many of

[46] Public Law 103-465, Section 125 of Subtitle C allows Congress to withdraw the United States from the WTO through the passage of a joint resolution in both Houses. As a practical matter, however, this section establishes extremely high legislative hurdles for a joint resolution to become binding: the ability to muster a two-thirds vote in each House of Congress—enough to override an inevitable presidential veto. The URAA also limited the president's power to enter into *new* international trade agreements on a fast-track basis. But Congress renewed the president's fast-track authority for five years in the Trade Promotion Act (TPA) of 2002.

[47] Of these eighty-seven cases, fifty-four were adjudicated at the panel or appellate level, whereas thirty-three were handled through formal consultations prior to the establishment of a panel. See WTO, "Dispute Settlement—Index of Dispute Issues," accessed on the website of the World Trade Organization at http://www.wto.org/english/tratop_e/dispu_e/dispu_subjects_index_e.htm, 30 January 2005.

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which were complex and technical in nature, they received scant public attention. Indeed, these changes were made under the guidelines of the Administrative Procedures Act, which merely requires notice of such changes in the Federal Register. Although notice in the Federal Register formally makes the actions of executive branch bureaus and agencies transparent, the fact is that few Americans read (or even know about) it. Furthermore, although the Administrative Procedures Act often requires public hearings on proposed rule changes, administrative agencies seeking such changes are not legally bound to follow the views they receive. For all practical purposes, then, these changes occurred well out of public view.[48] Although the vast majority of these cases have received scant public attention, seven have been front-page news and have led (or are leading) to the alteration of important U.S. laws or presidential actions designed to specifically address domestic concerns.

1997: The president's decision to weaken sections of the Clean Air Act of 1990 restricting imports of high-pollution-content reformulated gasoline;

1998: The president's decision to weaken sections of the Endangered Species Act of 1989, designed to protect endangered sea turtles caught during shrimp trawling;

2003: The president's decision to lift tariffs on a wide range of steel imports, designed to protect the domestic industry from rising foreign competition;

2004: Congressional enactment of legislation changing the U.S. tax code to eliminate export subsidies to foreign sales corporations;

2004: Presidential action to work with Congress to eliminate the so-called Byrd Amendment in U.S. trade law, which provides kickbacks to U.S. companies harmed by foreign subsidies;

2005: Presidential action to work with Congress to change U.S. laws governing electronic gaming rules, especially the Interstate Horseracing Act;

2005: Presidential action to work with Congress to eliminate subsidies to U.S. cotton farmers.

In addition to the cases already brought against the United States, WTO members have raised concerns regarding a wide range of democratically enacted and implemented U.S. and state regulatory matters designed to respond to domestic economic, social, and political demands. The raising of these concerns by foreign governments suggests that these issues are ripe for international challenge. In light of the fact that the United States has lost 97 percent of the cases brought against it, and has a compliance rate of 87 percent, these

[48] A list of these dispute settlement cases, the country or countries that brought action against the United States, and the action(s) taken by the United States to implement WTO rulings or negotiated settlements can be found at the website of the World Trade Organization, www.wto.org/english/tratop_e/dispu_e/dispu_e.htm, accessed 30 January 2005.

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emerging issues must be taken seriously. Indeed, as the U.S. International Trade Commission stated in a July, 2003 letter to the General Accounting Office: "In light of continued adverse findings by the Appellate Body, it appears likely that the United States will be subject to additional adverse WTO rulings, with all the attendant consequences."[49] These federal and state regulatory issues include: dumping, subsidy offsets, and domestic safeguard measures; the extra-territorial application of U.S. environmental, banking, tax, and export laws; the use of trade restrictions to enforce domestic environmental laws; government procurement regulations at the national and state levels, including programs to help small businesses and minorities compete for contracts, and federal programs designed to provide benefits to small businesses located in historically under-utilized business zones; subsidized export guarantees to farmers and ranchers; subsidized crop insurance programs; tax incentives for the fishery, lumber, aeronautics, and shipbuilding industries; the Jones Act, restricting foreign participation in domestic waterborne shipping; user fees at port facilities; "Buy American" and "Buy-in-State" programs; state and municipal laws requiring safety certifications for products sold or installed within their jurisdictions, including environmental and consumer health and safety standards; state-based financial services regulations designed to protect the public and investors; state-based tax for foreign-owned corporations based on total worldwide profits (the so-called unified tax); and state-based governance of professional standards.[50] In addition, more than forty specific U.S. federal statutes, enacted by Congress through domestic democratic political processes involving, among other things, public hearings, relatively open floor debates, and roll-call voting, have been singled out by trading partners for possible litigation. These federal statutes and the violations they are said to constitute are listed in Table 2.

Concerns about the impact of the WTO on American democracy go well beyond the views articulated by the Seattle protesters in 1999. According to the International Affairs and Trade Director of the Department of Commerce: "The fact that these [WTO] decisions have not *yet* [*sic*] impacted a substantial number of cases is far less significant than the fact that they have the potential to do so."[51] The Congressional Budget Office put it this way:

> Foreign trade can no longer be dealt with apart from other domestic economic policies and concerns. Governments often employ trade policies less for commercial ends than to achieve other goals—economic, political, and social. Significant trade

[49] U.S. General Accounting Office, *World Trade Organization: Standard of Review and Impact of Trade Remedy Rulings, GAO-03-824* (Washington DC, 2003), Appendix V, "Comments from the United States International Trade Commission," 116.

[50] WTO, Trade Policy Review Body, "Trade Policy Review: United States," Document Number WT/TPR/S/88, 15 August 2001; European Commission, *Market Access Sectoral and Trade Barriers Database*, "United States: General Features of Trade Policy, 2003."

[51] Government Accounting Office, *World Trade Organization: Standard of Review and Impact of Trade Remedy Rulings*, Report to the Ranking Minority Member, Committee on Finance, U.S. Senate, GAO-03-824, July 2003, 111.

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TABLE 2

Federal Statutes Under International Scrutiny

The Helms-Burton Act of 1996 (extra-territorial application of U.S. law)
Iran and Libya Sanctions Act of 1996 (extra-territorial application of U.S. law)
Iran Non-Proliferation Act of 2000 (extra-territorial application of U.S. law)
Export Administration Act of 1979 (extra-territorial application of U.S. law)
The Jones Act (discriminatory)
Trade Expansion Act—Section 231 (protectionist)
The U.S. Outer Continental Shelf Lands Act (protectionist)
Trade Act of 1974—Sections 301–310 (unilateral actions)
Omnibus Trade and Competitiveness Act—Section 301 (unilateral actions)
The Customs and Trade Act of 1990 (port fees—discrimination)
The Omnibus Budget Reconciliation Act of 1990 (port fees—discrimination)
Buy America Act (BAA) of 1933 (government procurement—discrimination)
The Highway Administration Act (BAA—discrimination)
The Urban Mass Transit Act (BAA—discrimination)
The Airports Improvement Act (BAA—discrimination)
The Merchant Marine Act of 1936 (BAA—discrimination)
The Hazardous Materials Transportation Act of 1994 (BAA—discrimination)
The Amtrak Authorization Act (BAA—discrimination)
National Science Foundation Act of 1988 (BAA—discrimination)
Commercial Space Act of 1998 (BAA—discrimination)
Small Business Act of 1953, as amended (BAA—discrimination)
American Fisheries Act of 1988 (limits on foreign ownership)
Submarine Cable Landing License Act of 1921 (limits on foreign ownership)
Federal Power Act (limits on foreign ownership)
Geothermal Steam Act (limits on foreign ownership)
Nuclear Energy Act (limits on foreign ownership)
The Nutrition Labeling and Education Act of 1990 (discrimination)
U.S. Clean Air Act of 1990 (discrimination)
Marine Mammal Protection Act of 1988 (dolphin-safe tuna—discrimination)
U.S. Endangered Species Act of 1989 (sea turtles—transparency/discrimination)

Source: WTO, Trade Policy Review Body, "Trade Policy Review: United States," Document Number WT/TPR/S/88, 15 August 2001; European Commission, *Market Access Sectoral and Trade Barriers Database*, "United States: General Features of Trade Policy, 2003."

liberalization thus means changing these national programs, and for this reason domestic policies will increasingly be the focus of trade negotiations.[52]

The domestic laws, rules, and regulations already (or potentially) subject to WTO scrutiny are less important in and of themselves than what they collectively suggest about the impact of the international trading system on the United States going forward: as foreign trade and international trade rules push deeper and deeper into the American economy (in large measure the result of U.S. world trade leadership),[53] more and more economic, social, and political

[52] Congress of the United States, Congressional Budget Office, *The GATT Negotiations and U.S. Trade Policy* (Washington DC: Congressional Budget Office, 1987), xii.

[53] In addition to the political effects of America's world trade leadership role, the expansion of foreign trade in the postwar period has been tied to two major economic developments: growing efficiencies in transportation and communications technologies, and the rise of export-led growth in developed and developing countries.

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issues traditionally considered domestic are likely to become the objects of international negotiation and arbitration within the framework of the WTO. Indeed, as then-WTO Director General, Renato Ruggiero, declared in 1996:

> One by one, trade and investment barriers will continue to be swept away by globalization, like leaves on an autumn day. . . . The new challenge will be less to regulate relations among national economies, than to establish the rules and structures of a transnational economy.[54]

Conclusion

The findings of this article lend some credence to the claims of the Seattle protesters. Although America's foreign trade policy–making process is not necessarily undemocratic, the exercise of world trade leadership *has* involved the centralization of the nation's domestic democratic political system and the prioritization of global over domestic concerns. Specifically, the exercise of world trade leadership has rested on a shift of foreign trade policy–making power at the domestic level from Congress to the president, and at the global level from the American state to the GATT/WTO—a shift of power I have termed the "triumph of globalism." The principal vehicle for this power shift has been a series of foreign trade statutes that have permitted Congress to delegate its Article I Section 8 power to regulate commerce with foreign nations to the president, and the subsequent use to which the president has put this power: the creation of a supranational regulatory authority for the management of trade liberalization on a global basis. If Congress and the president were similar institutions, or if citizen–state relationships were the same in domestic and global politics, then this shift would be merely technical in character. But Congress and the president are not similar institutions, and the representation of citizen interests is different at the domestic and international levels. As a result, the triumph of globalism fundamentally alters the nature of citizen–state relationships in the foreign trade policy–making process.

Yet the triumph of globalism is not simply a matter of academic concern. It poses real and growing problems for domestic democratic accountability as well. At the end of World War II, when America's superpower status served to protect the domestic economy from foreign competition, and when the rules of the international trading regime dealt solely with tariffs on goods, the triumph of globalism in American foreign trade politics raised few issues of domestic democratic concern. External economic and political forces attached to foreign trade simply did not affect the vast majority of American citizens. However, as foreign trade and international trade rules have pushed deeper and deeper into the American economy, the triumph of globalism has brought

[54] Renato Ruggiero, "Beyond Borders: Managing a World of Free Trade and Deep Interdependence," speech delivered before the Argentina Council on Foreign Relations, 10 September 1996, World Trade Organization PRESS/55, 10 September 1996.

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issues of democratic representation to the fore. Specifically, as the domestic consequences of America's world trade leadership role have emerged as the source of growing public concern, the triumph of globalism has made it increasingly difficult for American citizens to harness national state power to deal with them.*

* Thanks go to Ira Katznelson, Aristide R. Zolberg, Elizabeth Sanders, Richard Bensel, Herman Schwartz, Alice Amsden, Charles Tilly, the late Raymond Vernon, and the late William Diebold.

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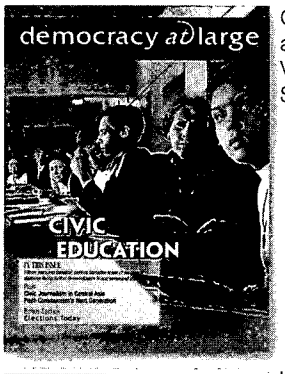

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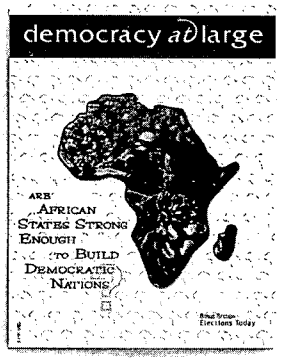

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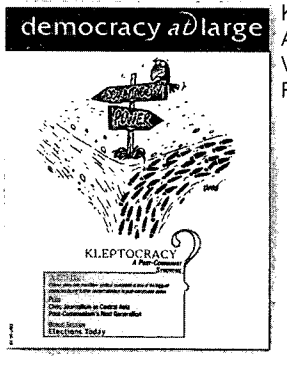

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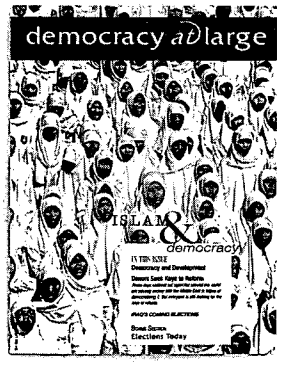

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Book Reviews

For the Many or the Few: The Initiative, Public Policy and American Democracy *by John G. Matsusaka. Chicago, IL, University of Chicago Press, 2004. 201 pp. $29.00.*

As use of direct democracy in many American states exploded in the 1990s, journalists and scholars focused substantial attention on the citizens' initiative process. Much of their work was highly critical of the process: the initiative was blamed for spawning bad ideas, badly written laws, abuse of minority rights, and the collapse of sound fiscal policy. As Peter Schrag, a Sacramento editorial page editor put it, initiatives brought about the "Mississippification" (Peter Schrag, *Paradise Lost: California's Experience, America's Future*, New York: The New Press, 1998) of California's once-great public sector. One of the most common themes used to explain how voters might have ever approved such policies is that people are easily tricked. That is, the initiative is a tool that special interests use to manipulate the public in order to advance narrow, self-serving agendas. A similar explanation of the initiative-fueled tax revolt concluded that voters may have wanted something for nothing.

John Matsusaka's valuable, accessible book represents one of the few studies that attempt to test how policy outcomes are affected by the initiative process and to examine whether policies produced by the initiative reflect what the public actually wants. Matsusaka's primary focus is on how the initiative affects state and local fiscal policy. One of the strongest elements of this book is that the author sets about answering these questions with little worry about whether the outputs of the process should produce Mississippi- or California-style public sectors. Rather, he has amassed decades worth of fiscal data from thousands of jurisdictions to model the effects of initiatives on policy. His basic theory, building on work by other economists, is that initiatives may improve the links between what citizens prefer as policy and what their representatives produce. The main difficulty with this type of research is accounting for public preferences.

The strongest findings of the book are that the initiative process has clear effects on fiscal policy, but, importantly, that these effects can vary over time. Matsusaka finds that expenditures were significantly lower in initiative states than in non-initiative states over the last three decades of the twentieth century,

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other things being equal. Key among these "other things" are public preferences for spending, measured in various ways. Schrag and others may be correct then, when noting that initiatives reduced the size and scope of their states' governments after the 1970s. But that is not the whole story: initiatives also changed the mix of taxing and spending over this period, shifting the fiscal mix toward greater use of locally generated user fees. However, early in the twentieth century, the initiative was associated with higher levels of state revenues.

Matsusaka's major point is that these revenue shifts and differences in spending levels between initiative states and non-initiative states reflect public preferences over how government should be funded. That is, legislatures in initiative states are assumed to end up passing budgets that more closely match what the public wants than legislatures unaffected by initiatives. At times, this part of the argument is supported directly with models of policy outcomes that control for public preferences. At other points, however, there are no state- or local-level measures of what the public wants. Matsusaka compensates admirably for this lack of opinion data by referring to trends in national polling data when they are available, and by arguing that higher levels of spending in initiative states from 1902 to 1942 were the result of the initiative better representing urban demands for services that were otherwise muted by rural gerrymandering.

These will not be the final words about whether the initiative process serves better the mass public or narrow interests. They do offer compelling evidence that fiscal policies may better reflect public preferences in states with the initiative process.

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A World Challenged: Fighting Terrorism in the Twenty-First Century *by Yevgeny M. Primakov. Washington DC, Brookings Institution Press, 2004. 144 pp. $22.95.*

Yevgeny Primakov served as the director of the Soviet and Russian foreign intelligence services, and as foreign minister and prime minister under President Boris Yeltsin. His short book provides a compact and coherent outline of the perceptions of international politics held by an influential segment of the Russian policy-making elite. But the title of his short book is misleading. It does include a clear and coherent discussion of the link between Islamic extremism and terrorism, but its real focus is a comparison of Russian and American foreign policy. Yevgeny Primakov does not criticize the foreign policy of the former USSR or the Russian Federation, but assails the American government for its alleged unilateralism, its war in Iraq, its indifference to the United Nations, its failure to appreciate or to try to understand the foreign policy of the Russian Federation or to appreciate its contribution to the war against terrorism and the resolution of regional conflicts.

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This is particularly evident in the comparison of Russian and American foreign policies in regard to the Palestinian–Israeli conflict. Yevgeny Primakov is highly critical of the American government's "domination of the peace process" and its uncritical support of Israel, and praises the policy of the former Soviet Union and the Russian Federation. He claims that the USSR helped to persuade Palestinian organizations to repudiate the use of terror in the 1970s, and insists that President Vladimir Putin's pressure on Israel in 2001 helped to moderate its policy toward the Palestinians. Most important, he portrays the "exclusion" of Russia from the peace process as the most important reason for its apparent failure.

Yevgeny Primakov compares Russian and American policy toward terrorism in much the same way. He argues that the American government was complicit in the formation of Bin Laden's organization and the emergence of the Taliban in Afghanistan and complains that American administrations have not appreciated fully the Russian government's contribution to the campaign to overthrow the Taliban. In particular, he stresses the importance of Russian aid to the Northern Alliance in its struggle against the Taliban and the efforts of President Vladimir Putin to persuade the leaders of the central Asian states adjacent to Afghanistan to permit the United States to establish military bases on their territory. Needless to say, Yevgeny Primakov charges that the United States government does not sufficiently appreciate the significance of the Russian war in Chechnya in the struggle against terrorism.

The author's clear concern about the conflict in Chechnya colors his conception of international politics. He insists that the concept of national self-determination has been misused to provide justification for unwarranted separatist movements and that the defense of the "territorial integrity" of existing states is essential to international stability. In this context, he concludes that the discussion of conflict between civilizations presented by Samuel Huntington (*The Clash of Civilizations and the Remaking of World Order*, Washington DC: Brookings Institution Press, 2004) is in itself a serious threat to the Russian federal system. His insistence on the primacy of territorial integrity leads him to criticize the NATO intervention against Serbia as providing support for those "working to create an extremist Islamic state" (p. 62) and to totally ignore the Serbian armed forces' assaults on the Albanian population of Kosovo.

Yevgeny Primakov's discussion of the proliferation of nuclear weapons and of arms control is also critical of American policy. He regards American criticism of Russian policy on nuclear materials and support for Iranian nuclear development as completely unwarranted, assails the American government's abrogation of the Anti-Ballistic Missile Treaty, and expresses concern over the threat of American use of outer space to develop new strategic weapons. In a similar vein, he assails the view that the United States is the dominant power in the world and points to the emergence of alternative regional centers of power as the basis for countering American efforts at domination. In the end, the author endorses Russian–American cooperation in the settlement of re-

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gional disputes, in the war against terrorism, and in the limitation of nuclear weapons, but he does not seem particularly optimistic about this possibility.

JONATHAN HARRIS
University of Pittsburgh

Seeking Justices: The Judging of Supreme Court Nominees *by Michael Comiskey. Lawrence, University Press of Kansas, 2004. 287 pp. Cloth, $40.00; paper, $17.95.*

When George W. Bush became President in 2001, it appeared likely that he would make multiple Supreme Court nominations. After all, Justice John Paul Stevens was eighty years of age, Chief Justice William H. Rehnquist was seventy-six, and Justice Sandra Day O'Connor was seventy. It was also widely reported that Rehnquist and O'Connor would like to have a Republican president choose their successors. Although no justices retired during Bush's first term, and as of this writing, O'Connor has announced that she would be stepping down, most High Court observers feel that at least one additional justice may well step down during his second term. Thus, this book is a timely one that should be considered must reading for anyone wishing to better understand the process of selecting Supreme Court justices.

The book's focus is on the modern confirmation process, which began to change significantly in the latter half of the twentieth century. One major characteristic of the modern era is ideology, which the author argues emerged during this period as "the nearly exclusive focus of confirmation politics" (p. 6). The nominations of William Rehnquist (for chief justice) in 1986, Antonin Scalia in the same year, Robert Bork in 1987, and Clarence Thomas in 1991 are noted as being overtly ideological. The opposition to each nominee was also ideological, at least until charges of sexual harassment were lodged against Clarence Thomas.

The emergence of ideology as the major consideration of the confirmation process in the modern era has resulted in renewed conflicts between the president and the Senate. In the 1968–1994 period, four of eighteen nominations for the Court were rejected, compared to only one of forty-six nominees being rejected during the 1894–1968 period. In spite of this, the author argues that the president still maintains a preponderant influence over Supreme Court appointments. Once the president selects a nominee, the Senate can only react to that nominee and may be somewhat deferential because the senators know that the president could nominate someone worse. He argues that perhaps the most obvious example of senatorial deference in recent years occurred in the 1990 confirmation of David Souter, who was not a distinguished nominee.

The author also notes that confirmations in the modern era are marked by more-detailed scrutiny of nominees, a more open process, greater involvement by the White House, and a greater incidence of nominations being made

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during a period of divided government. During the 1897–1954 period, only two of thirty-six nominations were made during a period of divided government compared to fifteen of thirty-one nominations during the 1954–1994 period.

Although some scholars (including Michael Comiskey) and journalists have a generally positive view of the process that now characterizes confirmation of Supreme Court nominees, others are critical. Adherents of the legalist school, for example, favor a less political and less sensational confirmation process that focuses more on the nominee's legal credentials and less on his or her political and constitutional ideologies. Even those who generally support the current process (the political school) sometimes express concerns about the Senate's inability to really determine a nominee's beliefs on legal issues.

Throughout the book's eight chapters, readers will find an in-depth analysis of these two competing critiques of the confirmation process. In the final analysis, the author rejects the legalist model almost entirely and concludes that "the political school correctly advocates an active role for the Senate" (p. 185). While no one will agree with all of Michael Comiskey's conclusions, there is no doubt that his book will inform the debate on the confirmation of Supreme Court nominations for years to come.

RONALD STIDHAM
Appalachian State University

Gulliver Unbound: America's Imperial Temptation and the War in Iraq
by Stanley Hoffmann with Frédéric Bozo. Lanham, MD, Rowman & Littlefield Publishers, Inc., 2004. 168 pp. $19.95.

Stanley Hoffmann has long been one of the academy's most insightful observers of both French and American politics, and he is thus uniquely qualified in the wake of the 2003 Iraq War to explain the United States to French audiences puzzled by the "hyperpower" and to explain France to American audiences so incensed as to rename their favorite "vegetable" the "freedom fry." This little book, conceived and presented largely as a series of conversations between Hoffmann and a French former student, does not disappoint.

For those familiar with the Hoffmann corpus, the book's title will resonate. Nearly forty years ago, as Vietnam weighed heavily on the American scene, Hoffmann published an influential—if today all too rarely read—cultural analysis of American foreign policy under the title *Gulliver's Troubles; or, The Setting of American Foreign Policy* (New York: McGraw-Hill, 1968). Many of Hoffmann's observations have withstood the test of time, and they are here applied with renewed vigor.

Not surprisingly, the most satisfying discussions in this book come as Hoffmann skillfully locates the grand strategic vision of President George W. Bush's administration within the "exceptionalist" foreign policy tradition. As others too have noted, Bush and his advisers are the latest in a long line of American statesmen who have asserted that the particular (that is, American values) is

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universal, who have declared that the world must be made safe for democracy, and who have cleverly framed interests in the language of these allegedly universal ideals. Yet, Hoffmann maintains, there has been a "rupture," for "what is new today is that exceptionalism is almost exclusively based on military power" (p. 21). Hoffmann thus rightly sees the Bush administration's neoconservative foreign policy as an unwieldy (and perhaps ultimately ill-fated) marriage between a militant Wilsonian idealism and a tough-minded militaristic realism. September 11 was, then, a "divine surprise" (pp. 33–49)—a terrible "gift" that opened space for the pursuit of a grand, ill-considered agenda.

The bulk of the book focuses on the Iraq War and its aftermath, particularly the "crisis" in Franco–American relations. In Hoffmann's view, the Bush administration was set on war with Iraq by the summer of 2002, and Bush's submission to the United Nations that September was a sham. Although Hoffmann acknowledges French tactical missteps, he takes French objections at face value. Nowhere does he concede that French opposition was driven, at least in part, by France's desire to undermine the "hyperpower" and its aspirations for global empire. Hoffmann treats those instances in which French leaders gave voice to counterbalancing impulses as cases of misguided rhetoric, but they were, perhaps more plausibly, revealing slips of the tongue. Frédéric Bozo gently suggests that Hoffmann is "overly indulgent toward French policy" (p. 14), and, indeed, Hoffmann's otherwise perceptive analysis is marred by a seeming need to beatify the opponents of the administration "barbarians" (p. 3) who worship the "cult of force" (p. 46). Hoffmann correctly accuses President Bush of fostering a Manichean view of the world, but he, too, can be faulted for falling into the convenient tropes of the Western, though with France now playing the role of the white-hatted cowboy.

Hoffmann's criticism of the Bush administration's arrogance, of its misguided quest for empire, and of its contempt for other views is today quite familiar. Yet these familiar arguments are often elegantly put, and Hoffmann's writing, even in this unusual format, sparkles as ever. Moreover, Hoffmann remains a wise and humane observer of international affairs in an age all too lacking in both wisdom and humanity. He is eloquent in making the case for international norms and institutions that would impart a measure of order to international politics and forestall Hobbesian anarchy.

Stanley Hoffmann's is a powerful liberal voice in a post–September 11 America that has too often seemed bereft of such voices. In his conclusion, he briefly limns a foreign policy based on "true partnership" rather than "ultimate command" (pp. 142–143). Had Hoffmann expanded on these themes, neoconservatives would have found themselves with a formidable sparring partner. This reviewer hopes that Hoffmann will take up the challenge.

RONALD R. KREBS
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After the Collapse of Communism: Comparative Lessons of Transition
by Michael McFaul and Kathryn Stoner-Weiss, eds. New York, Cambridge University Press, 2004. 280 pp. $60.00.

Michael McFaul and Kathryn Stoner-Weiss have edited a stimulating volume in which leading political scientists working on the former Soviet Union demonstrate the utility of a sophisticated combination of post-Communist area expertise and comparative social science methods. Although the editors describe the book as a "sampler" of cutting-edge work by top researchers, the volume in fact coheres very nicely around two central themes: state building and regime transition.

Philip G. Roeder launches the discussion of state building. Observing that the recent collapse of Communist regimes constituted the "second most intense burst of new states to enter the international system since 1815" (p. 21), Roeder is chiefly interested in why almost all of them were nation-states. The answer, he avers, is that the USSR, Yugoslavia, and Czechoslovakia all featured systems of "segmental federalism" that incubated nations and imbued their representatives with enough resources to out-compete rival claims to statehood. These nation-states' initial victories, however, did not typically translate into strong statehood. The chapter by Stoner-Weiss, mobilizing an impressive array of original data, demonstrates that the influence of Russia's central state on regional policy making and governance declined to near-negligible levels in important spheres during the 1990s, a weakness continuing even under President Vladimir Putin and doing great damage to the economy. Vladimir Popov's chapter undertakes a comparative analysis, contending that state weakness has been a primary factor undermining the economic performance of post-Soviet states relative to that of other post-Communist countries, China, and Vietnam. Popov further argues that attempts to democratize in weak states can cause "institutional collapse," thwarting both true democracy and economic growth.

The theme of regime change also runs strongly throughout this volume. Timothy J. Colton examines the masses, exploring how they relate to Russia's emergent political parties, through a series of surveys conducted in 1999–2000. Noting that many Russians remain stoutly nonpartisan, Colton finds that others have come to identify with parties in a highly patterned manner. He prudently warns, however, that mass partisan consciousness could be rendered irrelevant should Russia's elites move decisively away from democratic institutions. McFaul's chapter directly addresses this possibility, arguing for the importance of leaders and balances of power in determining the democratic fates of states. If a pro-democracy (pro-autocracy) leader comes to office and the balance of power is in favor of that leader, s/he can be expected to impose democracy (autocracy) on that country, a claim buttressed by an analysis of almost all post-Communist states. Valerie Bunce ventures a claim somewhat at odds with McFaul's, stressing the importance of context and historical legacies over leadership choice. Nicely uniting the book's state-building and democ-

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ratization themes, she argues that a strong state is necessary if a democracy is to be fully functional and that Russia's lack of a strong state (due largely to historical legacies) deserves much of the blame for the low quality of Russian democracy. She then makes a provocative suggestion: given that contextual factors work strongly against attempts to establish high-quality democracy in Russia, it may be that the low quality of Russia's democracy is, in fact, responsible for its durability. James M. Goldgeier and McFaul conclude the volume by arguing that the fate of international relations is intimately tied up with the fate of democracy. The world, they contend, is essentially divided between a liberal, peaceful, democratic "core" and a "periphery" where foreign policy is informed primarily by realist balance-of-power considerations. A democratic Russia could mean its joining the democratic core, whereas an authoritarian Russia will remain outside this core, potentially destabilizing this core or preventing other states from joining it.

HENRY E. HALE
George Washington University

Educated by Initiative: The Effects of Direct Democracy on Citizens and Political Organizations in the United States *by Daniel A. Smith and Caroline J. Tolbert. Ann Arbor, The University of Michigan Press, 2004. 225 pp. Cloth, $65.00; paper, $22.95.*

The purpose of any book review is to give the reader the answer to one very simple question: "Is the book worth reading?" In this case, the answer is a resounding yes. Daniel Smith and Caroline Tolbert have gone past the traditional methods of analyzing direct democracy and have taken a very insightful look at citizen lawmaking in the United States. The book is broken down into seven concise chapters that analyze the educative aspects of direct democracy on a variety of institutions. But even before you delve into the in-depth, yet easy to read, information in the chapters, you are first given a preface that presents a basic yet comprehensive background on the historical underpinnings and current perceptions of citizen lawmaking. It also provides the reader with an excellent road map of how the book will flow and outlines the research methods utilized in simply crunching the numbers.

As with any book, regardless of the overall quality, some chapters are more insightful than others. Chapters 1, 2, 3, and 7 were my favorites, with chapters 4, 5, and 6 leaving me a little less convinced of the overall conclusions. That in no way should be construed as a criticism of the quality of the research in those chapters; it is just that the dots don't seem to be as well connected in those chapters as in the others. The authors have also done something that I haven't seen in other books. They have included in each chapter boxes titled "What Matters," which highlight statistically significant results. This is a unique way of ensuring that the reader focuses on the important points in the chapter.

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I have read countless books and articles on direct democracy, but few have more astutely and accurately reflected the goals and aspirations of Progressive Era reformers pushing for the establishment of direct democracy in the United States than has chapter 1 of this book. Smith and Tolbert have taken an interesting approach in outlining what they perceive the original supporters of direct democracy hoped the educative impact of the process would be and then analyzing whether these hopes actually materialized. Chapter 2 takes the first stab at this by reviewing the impact that direct democracy has on voter turnout. The conclusions presented in this chapter reinforce existing research that shows that voters are more likely to participate in the electoral process when direct democracy is practiced in the state. Chapter 3 is a natural continuance of the previous chapter, with a review of what I call "voter competence." Smith and Tolbert conclude that "people in states with frequent ballot questions are more informed about politics. . . ." Chapters 4, 5, and 6, as I stated earlier, are not as strong as the other chapters. These chapters deal with the impact of direct democracy on citizens' confidence in government, the education of special interests, and the education of political parties. The data contained in these chapters are cutting-edge research, but the findings are not as convincing as those of the other chapters. However, I commend the authors for their efforts; the information contained in the chapters is enlightening and thought provoking. The final chapter does an excellent job of tying it all together and ends with a profound statement: "If history be our guide, the educative effects of citizen lawmaking may provide renewed excitement about the possibilities for democratic governance."

There have, of course, been other books written on this subject. Other researchers and writers who have done a great job in this area are Professors John Matsusaka, Beth Garrett, Liz Gerber, Skip Lupia, and Dan Lowenstein, to name just a few. I digress in listing these other researchers only as a means of making the point that Smith and Tolbert have written a book that both complements the work of these other notable individuals and proves that the quality of research on this important topic is finally reaching the levels it deserves.

M. Dane Waters
The Initiative & Referendum Institute

Passing the Buck: Congress, the Budget, and Deficits *by Jasmine Farrier. Lexington, University Press of Kentucky, 2004. 284 pp. $40.00.*

Jasmine Farrier sets out to understand why Congress "tells the country that it is not well suited to making tough decisions on major policy questions" such as declaring war or controlling spending (p. 1). She does so by analyzing how it structured the budget process from 1974 to 1996.

Budgeting involves tough policy choices because voters want spending, but not taxes or large deficits. In 1974, in the shadow of Watergate and "the Imperial Presidency," the legislators took responsibility by establishing a process

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through which Congress was supposed to face squarely the deficit that would result from the spending items contemplated. Yet, in 1985, in the shadow of unpopular deficits, the legislators prospectively shed responsibility through Gramm-Rudman-Hollings by empowering the General Accounting Office (GAO) to cut spending if deficits exceeded predetermined limits. When the Supreme Court ruled that the GAO could not be given this executive power, Congress, in 1987, reassigned it to the Office of Management and Budget—one of the bastions of "the Imperial Presidency." The Budget Enforcement Act of 1990 and the Line-Item Veto Act of 1996 shifted power in other ways from Congress to either the president or automatic mechanisms. The Supreme Court invalidated this "veto" also.

Farrier argues, and convincingly so, that prevalent theories of delegation fail to account for much of the post-1974 legislation. The principle-agent theory—in which the majority in Congress cedes power to an agent likely to work its will—is contradicted by Congress ceding power to a president of the opposite party. The transactions cost theory—in which Congress delegates to reduce transaction costs, but does not delegate distributional choices—is contradicted by its ceding distributional choices.

To explain why Congress sheds budget responsibility, Farrier looks to "an under-utilized source of legislative intent: the historical record" (p. 6). She finds the legislators repeatedly claiming incompetence to budget wisely. For example, Senator William Cohen cracked: "Stop us before we spend again" (pp. 1, 165). The legislators may, of course, only be pretending incompetence in order to justify shedding responsibility for tough budget cuts. In this way, they position themselves to say "yes" to popular spending requests and "no" to unpopularly large deficits, which truly is to have one's balanced budget cake and eat it too.

Farrier urges Congress to "do a much better job of explaining to citizens the real challenges" instead of abdicating its constitutional responsibilities (p. 220). There is, however, a design flaw in the Constitution when it comes to spending. The Framers' response to the threat of factions—and spending is, of course, a problem of factions—was that faction would counter faction. So long as Congress balanced the budget—and it did so, except during emergencies, long after the Constitution was written—it could satisfy a plea for spending from one faction only by taking the money away from another. When Congress gained the political latitude and access to credit markets necessary to run huge intentional deficits in the absence of an emergency, faction no longer checked faction.

Congress is, however, competent to design legislative mechanisms that would put discipline back into the appropriations process. Legislators do not want voters to know that, but perhaps, in her next book, Jasmine Farrier could spill the beans by showing precisely how Congress could organize itself to have a backbone. In the meantime, her present book is a highly informative read.

DAVID SCHOENBROD
New York Law School and Cato Institute

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Congress, the Press and Political Accountability *by R. Douglas Arnold. Princeton, NJ, Princeton University Press, 2004. 304 pp. $35.00.*

This is a massive and meticulous study of a world that no longer exists. R. Douglas Arnold, professor of politics at Princeton University, advances a sound premise, that "the nature of the informational environment affects the prospects for accountable government" (p. 244). But his book focuses on local newspaper coverage of members of Congress in 1993 and 1994. And the "informational environment" is profoundly different today from what it was then.

Arnold makes a reasonable case for studying newspapers. They "have a much larger news hole than do local television stations" (p. 4); many have regional editions that can focus on a few lawmakers; and "in many localities, newspapers set the local news agenda" (p. 4). Since 1994, however, newspaper readership has been declining steadily. And as Arnold admits, he focuses on papers in large part because they were easier to study than television stations, not because they were more important.

A larger problem is the advancement in technology since Arnold stopped his research. Every year, more voters get more information about politics through the Internet. A wide variety of political actors—interest groups, independent bloggers, House members themselves—have considerably greater capacity to provide information directly to these voters, avoiding the filter of the mainstream media.

Arnold states that there are "no real alternatives" to newspapers, and that if they "fail to provide information" about Congressional activities, "opinion leaders are unable to monitor what representatives are doing" (p. 154). But that is not really true, as the debate over Social Security reform amply demonstrates. Well-funded interest groups on both sides are flooding voters with a great deal of information. In addition to radio and television commercials, they are using innovative channels like e-mail, websites, and on-line videos, channels that are now an indispensable part of the "informational environment."

These developments do not diminish the sheer weight of Arnold's ambitious undertaking. He monitored twenty-five newspapers for ninety-seven weeks, and turned up 61,084 citations and 9,125 full-text articles (p. 24). As a result, he is able to contradict two previous studies that discovered very little coverage of House members by local papers (p. 29). By using computerized text searching, Arnold produced a much more accurate count than had earlier scholars. Moreover, he was able to include regional editions of papers like the *Los Angeles Times*, where much of the coverage was concentrated.

Intriguing patterns thread through this massive amount of data. Arnold found "no evidence of any liberal or conservative bias" (p. 46) in how lawmakers were covered. Coverage was concentrated on public actions, like floor votes and elections, with little attention paid to the backroom maneuvers that often determine legislative outcomes (p. 154). Where a well-financed challenger presented a serious threat to an incumbent, Arnold found that coverage was

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generally fair to both sides. But challengers needed to "raise lots of money" (p. 192) before they were taken seriously by the press.

This book describes in great detail what the data contain; it is not always persuasive in explaining the meaning of those data. One example: Arnold discovers that Senators get far more coverage in national publications than do House members, whereas the ratio is much closer in local papers (p. 59). But he fails to mention the most obvious reason: because House members run every two years, they return home far more often than do Senators and concentrate more on local issues, thus generating coverage in local outlets.

The primary flaw of this book is more simple and more serious: its data sets, no matter how exhaustive, are out of date.

STEVEN V. ROBERTS
George Washington University

Silent Voices: Public Opinion and Political Participation in America *by Adam J. Berinsky. Princeton, NJ, Princeton University Press, 2004. 224 pp. Cloth, $35.00; paper, $19.95.*

Over the years, opinion polls have become central to American politics, as a main tool for measuring popular will. In *Silent Voices*, Adam Berinsky claims that polls are far from perfect. He addresses this issue from a unique angle and, as the title implies, challenges the common belief that polls truly represent public opinion. According to Berinsky, the process of gathering information on public preferences may result in a form of bias. He focuses on respondents who answer "don't know" when asked for a political view, arguing that the voice of large segments of the population is unrepresented, that is, silent. The "don't know" response functions as an escape for individuals who lack the resources to form a coherent opinion and/or fear that reporting certain attitudes might present them in an unflattering light. The author provides evidence that people who do not answer survey questions may differ systematically from those who do. Polls may, therefore, lead to an "exclusion bias" (p. 32); that is, they may fail to represent public opinion accurately.

Berinsky comprehensively synthesizes the current literature concerning opinion poll data from several decades, and his findings are consistent with and reinforce the work of John Zaller (*The Nature and Origins of Mass Opinion*, New York: Cambridge University Press, 1992). Although Berinsky argues that there are problems with a persistent exclusion bias in public opinion research—as in the study of Benjamin Page and Robert Shapiro (*The Rational Public: Fifty Years of Trends in American Policy*, Chicago, IL: University of Chicago Press, 1992)—his explanation for opinion *change* does not contradict theirs. According to Berinsky, opinion "movement may instead be the result of alterations in what people feel is appropriate to voice publicly" (p. 139). Nevertheless, it may, in fact, be an outcome of popular reaction to new and relevant information, as Page and Shapiro argue.

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In the first two chapters, Berinsky explores the sources and extent of the exclusion bias. He discusses how individuals come to *form* and *express* opinions on political matters in a survey interview context (chapter 1). He then identifies the conditions under which public opinion polls might foster distortions/exclusion biases (chapter 2). He offers a two-dimensional typology of issue difficulty ("cognitive complexity," "social complexity"), which leads to predictions concerning the existence of the bias. He then presents an analytical strategy to measure the nature and direction of the exclusion bias. Berinsky's framework is interesting, his thesis is intriguing and well presented, and his illustrations are well chosen. And yet, the methodology has a certain lack of clarity. Although the author recognizes the possible analytic constraints on his work and seeks external evidentiary confirmation, it is still unclear whether his claim to know the opinions of those who refrain from answering by looking at their demographic and other politically relevant characteristics (p. 44) could not, in itself, be a form of bias (to be discussed further below).

Following the theoretical section, Berinsky presents an impressive empirical analysis within three issue areas—racial policy, the social welfare state, and war. Chapter 3 explores how social processes that exist in survey interviews could bias measures of opinion concerning racial equality. The analysis shows that some individuals who hold anti-integration attitudes tend to disguise their socially unacceptable opinions by not answering questions. This suggests that survey questions on racial attitudes may provide an incorrect picture of public opinion, depending on the social context of the survey interview. There is something of a contradiction here, however, because his claim that there is a social pressure to respond "don't know" is based on inferences from earlier polls that presumably involve the same bias. Chapter 4 examines problems at the opinion formation stage, demonstrating that reported opinions on economic redistribution have a conservative bias. Berinsky argues that individuals who would tend to be liberal toward social welfare policy find it cognitively hard to answer redistribution questions. This case is interesting and is based on arguments and evidence of liberals being "more prone than conservatives to opinion distortions arising from confusion, ambivalence, and uncertainty when forming opinions about the welfare state" (p. 87). In chapter 5, Berinsky looks at Vietnam War issues. He demonstrates that the political rhetoric in the War's early years tended to silence individuals who opposed the War. Later, as anti-intervention messages became more widespread and the Vietnam issue became less cognitively complex, the bias declined. This may be an appealing explanation, but it is also possible that over time, as more information became available and the situation abroad became more complex, the public altered its opinions. Because this case is much shorter and occurred during an earlier period than the other cases, it would be interesting to explore the possibility of change in attitudes toward war during the post-Cold War period.

Berinsky concludes that the "don't know" responses are often the result of a systematic process that serves to rule out particular interests. Thus, polls

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suffer from a disparity of voice, which is problematic for democracy. It is quite puzzling, however, that he fails to deal with the opposite possibility: that those who do not feel comfortable (for different reasons) saying that they "don't know" tend to provide answers to survey questions. To what extent might this opinion actually offset or balance out what Berinsky expects? How can we take into account both of these possibilities? Moreover, what about those who truly do not have an opinion? Berinsky argues that "the decision to give a *don't know* response does not indicate that a given respondent lacks politically relevant interests" (p. 48)—which may be true, but it is also possible that individuals do not have political interest in an issue or otherwise simply "don't know." To strengthen the author's point, further studies might compare directly cases that are *not* controversial, demonstrating that a "don't know" answer means just what it says. In addition, the alternative that a high percentage of "don't know" answers might point to a problematic question or complicated issue, not just a "problematic" public, should also be considered. Thus, although Berinsky's analysis provides "a floor for levels of bias in opinion," while "how high the ceiling goes remains to be determined" (p. 142), the floor still appears wide enough to merit continuing exploration. Overall, *Silent Voices* presents an interesting thesis, deepens our understanding of possible biases in opinion polls and political participation, and thereby offers an important note of warning to public opinion research. It is a welcome contribution to the study of public opinion in democratic regimes, and opens important avenues for future research.

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The Invention of the United States Senate *by Daniel Wirls and Stephen Wirls. Baltimore, MD, Johns Hopkins University Press, 2004. 288 pp. Cloth, $49.95; paper, $18.95.*

The Invention of the United States Senate, co-authored by brothers Daniel and Stephen Wirls, is a masterful treatment of the origins and early evolution of the U.S. Senate. The volume shatters much of the received wisdom about the philosophical origins of the Senate and about political dynamics at the Constitutional Convention. Extremely well-written and informed by theoretical perspectives on institutional choice, this book should reorient our thinking about how and why the Senate took shape and how it has evolved over the course of its long history.

The book starts by unpacking the theoretical models from which the Framers drew in conceptualizing the Senate. As the authors make clear, the conventional view of the preeminent pull of Montesquieu's writings on the Framers is somewhat wide of the mark. More accurately, Montesquieu's writings on the

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separation of powers, coupled with models offered by Cicero, Polybius, Locke, Hume, and Harrington, offered the Framers a wide set of alternative models for conceptualizing the Senate. As the authors suggest, however, the Framers knew and drew from these models, but were encouraged by the unique characteristics of the new American republic to "translate these models into American circumstances" (p. 38). Given the political equality of the new republic, the challenge was to create a prudent Senate in the context of the separation of powers, a mixing of antecedent models that involved competing and conflicting principles of constitutional design. What shines through here is that simpler models of the Senate's origins (such as an alternative argument that the Senate was designed as an American House of Lords) do not do justice to the competing alternatives that structured the Framers' choices before and during the Convention.

The authors' treatment of the Constitutional Convention is particularly noteworthy. To some degree, their treatment of the origins of the Great Compromise reflects the arguments advanced by Frances Lee and Bruce Oppenheimer in their *Sizing Up the Senate* (Chicago, IL: University of Chicago Press, 1999); both works suggest that the Framers' commitments to bicameralism and a small Senate dictated the course of the Great Compromise over state representation in the Senate. Wirls and Wirls build on these observations by showing the ways in which the Framers' (particularly Madison's) decisions were compelled by both principle and political interest. Moreover, the authors suggest that compromises over representation undermined Madison's vision of the Senate as a prudent national-regarding body. So the Senate was not merely a creation of the Great Compromise; ideas of a properly constructed Senate propelled the Framers throughout their deliberations, although the mix of delegate and state interests ultimately required Madison to retreat from his idealized Senate design.

Chapter 5 provides the signal contribution of the book. The authors show persuasively that the compromise over representation shaped subsequent choices of the Framers about the Senate. Most importantly, the compromise over apportionment encouraged the Convention to move powers away from the Senate and into the presidency. This is perhaps most visible in debates over the Senate's constitutional powers. Had the Senate retained its shape as a more deliberative and experienced body—able to secure national rather than parochial interests—many of the Framers (particularly those from large states) would have continued to advocate special powers for the Senate (like war, treaty, and appointment powers). But the Great Compromise altered those delegates' preferences: the Senate was now an unrepresentative body, a mere product of state legislatures. Rather than viewing institutional choices at the Convention as the outcome of delegate preferences brought to the Convention, the authors suggest that preferences over constitutional design were the product of the set of evolving choices made at the Convention. This insight complicates efforts to model the political dynamics in Philadelphia because the mix of

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delegate interests changed over the course of their deliberations. Moreover, the delegates' preferences were also shaped by the Convention's decisions about other elements of the Constitution, namely, presidential powers (which, as the authors point out, were at times caught in a voting cycle). This path-shaping character of the Convention's choices is seen quite clearly in the debates over judicial appointments, in which the Framers stepped back from efforts to entrust such powers solely to the Senate, as they had originally envisioned. Still, as the authors show, the delegates intended the Senate to play an active role in appointments, especially those to the judiciary.

The book concludes with a brief look at the early implementation of the "clumsy hybrid" (p. 206) invented in Philadelphia and its gradual evolution. The authors effectively challenge the conventional wisdom about the Senate's status as the less active of the two chambers. More generally, the authors conclude that neither the ambitions of the Federalists for a prudent, powerful, and deliberative upper chamber nor the fears of their opponents materialized. The authors wisely attribute that outcome to the competing interests, ideas, and evolving set of compromises that underlined the invention of the Senate in Philadelphia. It may also be that political institutions inevitably give rise to unintended consequences, regardless of the best intentions of their inventors.

I suppose that readers might have enjoyed a more explicit discussion of the implications of the Senate case for theories of institutional choice and change. The study is certainly rich enough to generate many such considerations. But this is a minor quibble. Congress has tended to escape the attention of scholars of American political development. *The Invention of the United States Senate* significantly remedies this oversight, and in doing so, raises the bar substantially for future studies of congressional development.

SARAH A. BINDER
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The Two Reconstructions: The Struggle for Black Enfranchisement *by Richard M. Valelly. Chicago, IL, University of Chicago Press, 2004. 304 pp. Cloth, $58.00; paper, $22.50.*

Richard M. Valelly asks the questions how did Reconstruction in the post–Civil War years fail so badly, and why did the Second Reconstruction during the post–World War II period succeed? These are large questions, which the author places in the broadest possible world-historical and human-behavioral contexts. He tells us that "no other democracy in the world has ever enfranchised a large group, then disenfranchised it—and then re-enfranchised it" (p. ix). Valelly posits that real equality in any polity "depends on moral enlightenment within the dominant group" (p. x), and that democracies tend to cultivate those moral awakenings, but that we must investigate to find the specific

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conditions under which the dominant group in a democracy comes to agreement on particular moral tenets. In these days of microscopic studies in the social sciences and humanities, the author's breadth of intellectual concern is admirable indeed.

To address these questions, the book offers an extended comparison of the two periods of American history, focusing on the making and unmaking and re-making of public policy about voting and political rights. African Americans' enfranchisement has been closely linked to the strengths of political institutions. Valelly examines how biracial coalitions were keys to enfranchisement in both the first and second Reconstructions. Party building and coalition building established the moral enlightenment that would result in the extension of full political rights to African Americans *and* in the necessary policy changes, like the Voting Rights Act of 1965, that effected the full and final re-enfranchisement of blacks. In sum, Valelly's explanation of the differences in the two Reconstructions focuses on the profound difficulty of building a Republican coalition in the post–Civil War South, when no Republican Party had previously existed at all, and the relatively easier task of coalition building in the Democratic Party of post–World War II America, in which African Americans effectively replaced white southerners in the majority party. The other explanation central to the book focuses on "jurisprudence-building," the process of creating and defining laws in such a way as to undermine coalition building, as ultimately happened in the first Reconstruction, or to reinforce and advance pro–civil rights coalitions, as in the second Reconstruction. Since about 1944, the author suggests, the courts have been much more supportive overall of carving into national law the moral enlightenment necessary to enfranchising African Americans.

There is probably little in this book that will be new to the close student of this nation's long struggle with political equality. What is original is the framework for a structural explanation about what kind of action succeeds in achieving fuller democracy and what does not. As that framework, this is a highly valuable work.

For those readers less focused on political structures as the key to unraveling the American dilemma, questions will remain. Valelly more or less rejects the economic explanations that the economic historian Gavin Wright and others have put forward (Gavin Wright, "The Civil Rights Revolution as Economic History," *Journal of Economic History* 59 (June 1999): 286–287). Students of twentieth-century cultural history might argue that interracial coalition building has been enabled since World War II by the sharing of values between blacks and whites in music, sports, movies, and television. Others who examine ideology would surely note that the democratic discourse spurred by Americans' confrontation with German and Japanese racism in World War II went far toward the creation of the moral enlightenment that the author sees as the necessary background for bringing about the evolution of political struc-

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tures. Race in America has been such a deep and vexing problem that efforts to explain our partial achievements of solutions often raise as many questions as they answer.

ROBERT J. NORRELL
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The Republican South: Democratization and Partisan Change *by David Lublin. Princeton, NJ, Princeton University Press, 2004. 272 pp. $35.00.*

The democratization of Southern politics, coupled with economic issues rather than racial issues, best explains Republican ascendancy in the South over the past half century of gradual partisan change. So concludes David Lublin in this valuable study challenging the conventional presumption that GOP gains in the South are premised primarily on the politics of race. According to Lublin, the commonplace white backlash theory (or racial threat hypothesis) has been overstated and does little to explain GOP success in the South. "New Republicans were attracted more by economic than racial conservatism once the institutional stranglehold of the Democratic Party over the region's institutions was removed" (p. 173). The key economic issues in question, he argues, include lower taxes and reduced government spending. In other words, the debate Democrats are losing in the South focuses primarily on the question of limiting the role of government.

The civil rights movement, Lublin notes, helped destroy the old one-party system in the South. The 1965 Voting Rights Act contributed to the democratization of Southern politics, he argues, by destroying laws and institutions that had artificially maintained Democratic Party hegemony. Changes in laws and institutions helped create "the new small-d democratic era" (p. 213). The resulting expansion of the franchise to include many previously excluded white and black voters undermined the old party system, paving the way for healthy two-party competition in the South for the first time since Reconstruction.

Lublin carefully grounds his overall argument in the debates over realignment and dealignment theory, raising and challenging the ideas of James Sundquist and Everett Carll Ladd on realignment, the arguments of Gary Jacobson on congressional elections, and the popular notions of Thomas and Mary Edsall on Southern politics. While usefully grounding his analysis in realignment theory, Lublin avoids getting entangled in those seemingly endless debates.

Rather than striving to simplify complex political phenomena, as political scientists too often do, Lublin offers an ambitious, integrated, yet elegant theory focusing on the roles of elites, institutions, and issues in explaining the long and multifaceted story of the rise of the Republican South. His discussion of elites naturally includes questions of candidate recruitment and candidate emergence. His consideration of institutional structures encompasses, for example, the roles of primary elections and redistricting. Finally, Lublin examines

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throughout the book a range of economic, social, and racial issues, concluding, ultimately, that economic issues concerning the growth of government best explain the gradual partisan change. Lublin argues that race was not the issue causing partisan change in the decades immediately following the civil rights movement in part because there was little difference between white Southern Democrats and white Southern Republicans on race. In his conclusion, the author acknowledges that racial issues, such as affirmative action, and social issues, including abortion, are rising in importance today.

The book is clearly written, well organized, and well documented; the argument is carefully developed, albeit at times repetitive. Lublin offers evidence and authority at every step of his tightly drawn thesis. Although this is not necessarily a good undergraduate classroom book, the book is ideally suited to scholars and serious journalists. *The Republican South* should also be of considerable interest to partisans plotting long-term party-building strategy. This author proffers constructive advice to partisans of both stripes, especially in the concluding chapter "The Future of Southern Politics." Ken Mehlman and Howard Dean, call your local bookstore now.

WILLIAM F. CONNELLY, JR.
Washington and Lee University

The Formation of the National Party Systems: Federalism and Party Competition in Canada, Great Britain, India, and the United States
by Pradeep K. Chhibber and Ken Kollman. Princeton, NJ, Princeton University Press, 2004. 272 pp. Cloth, $50.00; paper $24.95.

Reading this ambitious volume, I was reminded of Willy Sutton's response to the journalist who once asked him why he insisted on robbing banks. Sutton allegedly replied, "Because that's where the money is!" The authors hypothesize that political parties emerge and then are driven to organize and compete wherever, among levels of government, the locus of effective power over public policy may be.

This seems like a reasonable idea, if not pushed too far; but this pitfall has not been avoided here. The overreach itself is spurred by some imprecision in the definitions of key concepts and/or unpersuasive measures used to establish where the weight of their empirical evidence leads.

Impressive quantities of district-level electoral data, as well as information about national and local public expenditures and bureaucracies and selected historical events are provided for Great Britain, Canada, India, and the United States. These countries were chosen as test cases for the above proposition because they share similar electoral systems of the single-member-district-plurality-wins variety. The electoral data permit the authors to explore as well whether, in such systems, Maurice Duverger's so-called law about the prevalence of only two competing parties in such countries actually holds (Maurice Duverger, *Political Parties*, London and New York: John Wiley & Sons, 1954, pp. 207–228).

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The law seems to work quite powerfully, but only at the electoral-district as opposed to the national level. The authors note that this is true even of India, a country with huge numbers of language, class-and-caste, wealth, and religious cleavages. On the other hand, Canada and Great Britain are designated as sometimes exceptions to the rule, and it is a pity that the authors acknowledge (p. 223) that they have essentially nothing to say about why this may be so. It is, after all, the puzzles about politics that invite attention.

The persistent claims the authors make—that their key hypothesis is validated, and that it represents *the* superior explanation for the emergence and development of political parties and party systems and, equally important, for the changes that both the parties and party systems experience over time—are, at best, only weakly supported. They do show that despite stability in the electoral rules of the four countries, the number of "effective parties" within them at the national level has changed from time to time, and that these changes seem to correspond to moments of greater concentrations of public policy authority at the national or sub-national levels (pp. 161–179). But there is a complicated cause-and-effect problem about this that is not investigated in the depth it deserves.

In the closing pages, the authors do consider that there may be other explanations than theirs as to why these shifts in authority and power concentrations may occur. They also acknowledge that, indeed, it may be the political parties themselves that, in responding to the challenges they cite—war, economic depression, nation building, and the creation of the welfare state—actually bring about these power and authority shifts between center and periphery. They also cite the existence of much research that would tend to show that parties can be powerful independent variables that bring about, or impede, such changes.

These alternative claims, however, are then dismissed with the comment that, after all, parties are not "mostly" or "solely" responsible for such transformations (p. 227). However, none of the studies they cite, or others I have read, make any such claim. If, as the authors suggest, something called "the state" also brings about these changes (which, in turn, drive the parties in one direction or another) much more direct analysis of this possibility would be needed than is found here.

Most political scientists and historians would argue that political parties, along with several other agents of change, have typically been considerably more than organizations that react to power shifts engendered by war, depression, welfare legislation, post-independence nation building, and so many other challenges. Contemporary Iraq is a striking example of when and how political parties of another country, and the leaders of these parties, can actually become the proximate causes of events that bring about major shifts in the locus of governmental power in both places.

JOSEPH LAPALOMBARA
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The Paradox of American Unionism: Why Americans Like Unions More Than Canadians Do, but Join Much Less *by Seymour Martin Lipset and Noah M. Meltz, with Rafael Gomez and Ivan Katchanovski. Ithaca, NY, ILR Press, 2004. 208 pp. $32.50.*

For over half a century, the two main authors of this book have been among the very top figures in international social science, setting the terms and shaping the debates through which many have come to understand unions, industrial societies, and the differences between Canada and the United States. Noah Meltz passed away before the current book could be completed, but he and Seymour Lipset had framed this project around an important and provocative question: why has union density in Canada and the United States diverged so markedly since the mid-60s (slightly up in the former and sharply down in the latter) if public opinion toward unions, relatively high in both countries, has been even more favorable in the United States than it has in Canada? Unfortunately, it is a question that cannot be adequately answered, considering the theoretical and methodological limitations that the authors have imposed on themselves.

The book's theoretical premises dovetail with Lipset's previous work. Deeply rooted national values are seen as being reflected in each country's judicial and political institutions and are the key to explaining the paradox in the title. Thus, distinctly Canadian values are seen to have created institutions open to the left, and, therefore, to unions; whereas in the United States, values have created institutions unfavorable to the left and to unions. But one must ask, if left-wing parties and institutions were as fundamentally antithetical to "American values" as the authors suppose, why a century of politics characterized by red scares, red-baiting, and less dramatic practices of ideological purification that have served as passkeys for entering policy debates and the most powerful of institutions in the United States? In other words, why go to all that trouble and invest so many resources if left-wing parties and institutions could never have taken root among the American people anyway? And although values might play some role in explaining U.S.–Canadian differences and there is no question that political and judicial institutions are more favorable to unions north of the border, one must also ask why the authors have so severely constrained their analysis by thoroughly ignoring the role of the corporation as a player in this drama.

To sustain their argument, they are forced into remarkable feats of intellectual gymnastics to avoid the unavoidable role of corporate anti-unionism in its political, judicial, and workplace manifestations in the United States. For example, the book offers the results of a survey of Americans and Canadians that are particularly interesting for the counterintuitive findings of pro-union sentiments expressed by Americans. The problem is that attitudes and opinions of the general population have little bearing on the situated mechanics and dynamics of actual union formation in the United States. Similarly, although the relatively charitable views expressed toward unions by U.S. managers are

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worth noting, as the authors have done, whether these views have any effect on actual corporate practice toward unions is unclear because the authors have nothing at all to say about corporate behavior or the power dynamics of the U.S. workplace. The methodological individualism of the survey approach essentially renders it helpless as a method for grasping the often conflict-laden process of collective action through which union membership status is largely determined in the United States; where individual choice ("to join or not to join") is vastly more complicated than the arguments of this book would seem to allow.

RICK FANTASIA
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The Political Use of Military Force in US Foreign Policy *by James David Meernik. Brookfield, VT, Ashgate Publishing Co., 2004. 269 pp. $79.95.*

A perennial question in American foreign policy is why the United States chooses to employ military force short of war to pursue political goals. The scholarly literature in international relations fields a number of possibilities, including imbalances of power in the global system, economic interests, American values, and domestic politics. James David Meernik's thoughtful and clearly organized study brings together all of these explanations and presents an overarching explanation for military actions throughout U.S. history.

This analysis systematically examines four theories of why American presidents decide to employ military force. It begins with the classic realist explanation, which focuses on power and security interests in the international system. Next, it evaluates the role of economic interests, including resources, monetary policy, and trade. The study then looks at the influence of principles in American foreign policy, defining American goals as "liberal idealism" (pp. 8–9), or the promotion of democracy and human rights. Finally, the project analyzes the role of domestic politics in foreign policy choices, including public opinion, economic conditions, and elections. These factors are subsumed under the category of "diversionary theory" (p. 157).

To test these theories, the study makes use of several data sets. For American uses of force before World War II, it draws on findings from the 1993 Congressional Research Service Study, which compiled information on all such interventions in U.S. history. The author prepares an independent, comprehensive data set that builds upon a number of diverse sources that systematically evaluate military actions by the United States from World War II to 1998. Because this research focuses on the use of force short of war, events such as the Vietnam War and the 1991 Persian Gulf War are not included.

The results of this complex analysis make a comprehensive and significant contribution to understanding why the United States employs military force abroad. Each of the four theories is explained and tested systematically, and

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the author is particularly receptive to multiple explanations for policy decisions. Although the primary conclusion is that the realist model, focusing on power and security considerations, provides the fullest explanation, the study also recognizes the importance of economic interests and American principles in shaping choices. Diversionary theory appears to provide the least compelling explanation for uses of force short of war, at least with respect to the variables traditionally studied in this category.

This carefully researched study points to the need for further research in two areas. First, domestic political factors such as media coverage or executive branch politics may be helpful in explaining American uses of force, and the author aptly concludes that future studies should "examine the wide range of conditions that set the broad parameters on foreign policy" (p. 242). Although these variables may not trump the other theories in providing the most compelling reason for U.S. actions, they can provide valuable insights on the timing of decisions, the details of military engagements, and so forth. Second, the relevance of these conclusions in the post-September 11 era merits systematic analysis, as the author recognizes, "to better integrate the threats from terrorism and the proliferation of weapons of mass destruction into realist theories of US foreign policy making" (p. 229).

This empirically rich and theoretically grounded understanding of the many reasons for using force short of war in American foreign policy will be of interest to students of American politics and international relations alike. It provides a solid basis for future research into any single one of the four theories examined, and it makes an original contribution through its well-developed multivariate analysis.

MEENA BOSE
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Creating Insecurity: Realism, Constructivism, and US Security Policy
by Anthony D. Lott. Burlington, VT, Ashgate, 2004. 178 pp. $94.95.

Over the last few years, an increasing number of articles and books have appeared that attempt to bridge the gap between realists and constructivists. Some of these revisit classical realist figures in an attempt to elucidate the constructivist elements in their scholarship. Others attempt to convey realists as more sensitive to the cultural dimensions of power or constructivists as more attuned to the power–political dimensions of norms, identities, and ideas. Still other works seek to synthesize realist and constructivist propositions about international relations. Finally, some scholars seek to combine realist and constructivist insights to produce better accounts of international relations.

Anthony D. Lott's new book falls somewhere in this last camp. He contends that American security policy often fails to make the United States more secure; in fact, the pursuit of ballistic-missile defenses, American policy toward Colom-

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bia, the pursuit of democratic enlargement, and preventive war in Iraq have all, according to Lott, generated more insecurity than security for the United States. Lott argues that combining realist and constructivist accounts is a necessary step for both diagnosing the ways in which the United States makes itself less secure and opening the door to better policy alternatives.

Lott grounds his synthetic position on what he calls "epistemological constructivism," which amounts to a recognition that how we understand world politics—the language we use to describe it and the meanings we attach to it—does not simply reflect international relations, but actively constitutes the daily practices and dynamics of world politics (pp. 48–49). Both realism and "political constructivism" are discourses that engage with the world and help to produce it. This meta-theoretical enframing, however, turns out to be mostly a way for Lott to clear ground to discuss how realist and constructivist critiques of American security policy supplement one another in each of his cases.

The way they do so is fairly straightforward. In general, realist arguments explain why particular security policies may backfire. For example, in his discussion of the U.S. decision to unilaterally pursue a ballistic-missile defense system, Lott surveys realist arguments that ballistic-missile defense policies are bad policy (pp. 77–86). But, he maintains, realist theory cannot adequately explain why the United States would pursue these policies in the first place. Political constructivism, which focuses on how various narratives of American identity are at stake in the decision to pursue a unilateral ballistic-missile defense system, explains such apparently self-defeating behavior (pp. 87–92). Taken together, these approaches not only recommend that the United States should abandon unilateral deployment, but also suggest how policy makers may recast the basic terms of the debate over security to allow for more effective alternatives (pp. 93–97). The rest of the cases reflect broadly similar style and substance.

These are perfectly reasonable arguments, and Lott presents them in a clear and compelling manner. However, the book suffers from the pitfalls of what might be termed "synthesis through combination." Its theoretical work consists almost entirely of reviews of arguments advanced by others, which are then combined in the case studies. At a basic level, it should come as no surprise that both realists and constructivists have important things to say about security policy. Theories are always simplifications. Combining them will usually produce a more complete picture of the world. Thus, it would have been more interesting if Lott had engaged in a sustained attempt to build a novel synthesis of realist and constructivist principles. This would have turned a worthwhile exercise into a truly important contribution to an emerging trend in international relations theory.

DANIEL NEXON
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Rules for the World: International Organizations in Global Politics *by Michael Barnett and Martha Finnemore. Ithaca, NY, Cornell University Press, 2004. 226 pp. Cloth, $45.00; paper, $17.95.*

In advancing the proposition that international organizations are not simply the pawns of powerful states or subject to other external constraints, Michael Barnett and Martha Finnemore draw on two sets of literature. One is the well-developed but recently somewhat neglected study of bureaucratic politics and, especially, organizational process. Barnett and Finnemore argue that international organizations can be best understood as bureaucracies, with all the claims to autonomy that their special expertise and their operation under neutral rules elicit from others—and with all the routinization and bureaucratic imperialism that critics allege are inherent in any bureaucratic entity that defies outside direction. A second literature is that of constructivism. Here, the argument is that international organizations use the status that their recognized knowledge provides them in order to define reality—to decide, in the authors' words, "if there is a problem at all, what kind of problem it is, and whose responsibility it is to solve it" (p. 7).

In an imaginative twist, Barnett and Finnemore then examine three case studies—the evolution of the International Monetary Fund and its increasing desire to intervene in what, at its origin, would have been described as the domestic affairs of recipient states; the trends that led to an increased willingness on the part of the United Nations High Commissioner for Refugees to countenance what amounted to involuntary repatriation of refugees; and the "peacekeeping culture" (pp. 122–125) at the UN Secretariat that caused it to turn a blind eye to a developing genocidal situation in Rwanda—as evidence for the proposition that international organizations, changing over time in ways that students of any bureaucracy might predict, developed practices and attitudes that had not been intended by the states that created them and were not favored by relevant governments at the time.

Barnett and Finnemore, in discussing the relationship of international organizations to great powers, admit that the power of the organizations is largely a negative one; that is, the organizations can rarely force powerful states to do what they do not wish to do, but the organizations can sometimes successfully ignore the wishes of even the strongest states. Because the organizations can, by contrast, often dictate to and coerce weaker states (frequently at the behest of the stronger states that fund them), in this respect, we continue to live in a realist world. In addition, the evidence for the authors' interpretations of the actions of these organizations, although based on numerous interviews and access to internal records, is not equally strong across the cases. The discussion of the actions of the Secretariat as events in Rwanda unfolded is particularly noteworthy in this respect. The reader is told that the crisis on the ground "might" have made the Secretariat in New York less receptive to information leading to an interpretation of events as a developing genocide rather

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than a two-sided civil conflict, that that information "might" have brought the Secretariat to take a different view of the desirability of intervention, and finally, that a concern for the institutional consequences for the UN if it tried to act in Rwanda and failed "arguably" stiffened its unwillingness to interpret the situation as genocidal (p. 148). When we hear that certain information "undoubtedly reinforced" the reluctance of the Secretariat to alter its original assessment, we can conclude that, in fact, we do not know what was in the minds of officials working in the Secretariat, and that we are, in fact, speculating about the thoughts of those involved. Documentation on such recent cases is undoubtedly difficult to obtain, but the authors should take care that they are not "constructing" a reality to meet their hypotheses.

DAVID CLINTON
Tulane University

The Bullet's Song: Romantic Violence and Utopia *by William Pfaff. New York, Simon & Schuster, 2004. 351 pp. $27.95.*

In this very personal and mournful epitaph for the twentieth century, William Pfaff lays to rest just about every known vision of utopian modernism from Marxism to the missionary Americanism of George W. Bush. In many ways, this denunciation of ideologies and the intellectuals who craft and promote them is a familiar story. So, too, is Pfaff's plea for a more prudent politics, in which the perfect is not the enemy of the better. What distinguishes Pfaff's account are his polished prose, his idiosyncratic interpretation, and his focus on life stories.

Pfaff, like many other commentators, begins with the debacle of World War I and the dark shadow it cast across the rest of the century. According to this well-worn way of looking at things, the War's purposeless devastation generated disillusionment with the promise of modernity in general and liberal democracy in particular—thus leading to poisonous experiments with extremist politics and, inevitably, to World War II. Pfaff, however, sees the impact of World War I somewhat differently. He claims, counter-intuitively, that the debacle of 1914–1918 gave rise to the glorification of war and violence, per se. The result, according to Pfaff, was to indelibly mark the century with the cleansing power and utopian payoff of violence. Pfaff charges that this romanticization of violence is distinct from and even more insidiously dangerous than the instrumental use of war and terrorism to further national values and interests.

The culprits in this fetishization of martial force are the engaged intellectuals whose life stories comprise the main body of this book. These stories are both the strength and weakness of Pfaff's account. He demonstrates, in case after case, from T. E. Lawrence and Gabriele D'Annunzio to Andre Malraux, Arthur Koestler, Che Guevara, and others, that engaged intellectuals have made a credo of violence, revolution, and utopia. These sketches are compelling and demonstrate that intellectuals with political ambitions often throw caution to the wind and embrace perilous adventurism.

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There are, however, a number of discontinuities in Pfaff's account, which seems to assign to engaged intellectuals primary responsibility for the political tragedies of the twentieth century. To begin with, it is one thing to find fault with a cross section of prominent, engaged intellectuals and quite another to suggest, as Pfaff does, that engaged intellectualism is intrinsically associated with romantic violence. Certainly, not all engaged intellectuals drew the same romantically violent and utopian messages from World War I. Pfaff himself acknowledges exceptions like Ignazio Silone, Raymond Aron, George Kennan, and Simone Weil. Indeed, Weil emerges as the voice of an alternative politics with which Pfaff identifies: "Her thinking was always reinforced by a constant determination to make her life conform with her intellectual conclusions, 'to arrive at the truth through experimentation and to remedy oppression by means of physical engagement' (as her biographical note in the *Dictionnaire des intellectual francais* puts it)" (p. 312). In the end, Pfaff's indictment of engaged intellectuals may be applicable only to those whose emotional maturity and stability are compromised.

More fundamentally, there is a way in which this book can be read as an invitation to shoot the messengers. Somehow, the political leaders who perpetrated the violence—Hitler, Stalin, and their minions—emerge as bit players in the lethal excesses of the twentieth century. The thinking of Pfaff's engaged intellectuals may well be as muddled and as misguided as he claims. But making them so central to this epitaph for the twentieth century exaggerates their importance well beyond their influence. No doubt they were prominent figures in the political culture of the twentieth century. Pfaff, however, provides little evidence of or explanation for their putative centrality.

STUART A. SCHEINGOLD
University of Washington

Parting Ways: The Crisis in German–American Relations *by Stephen F. Szabo. Washington DC, Brookings Institution Press, 2004. 195 pp. $24.95.*

An astute observer of German–American relations for decades, Stephen Szabo has written a perspicacious analysis of the post–Iraq-war state of affairs. This short, readable book should be of interest to policy makers and academics alike, because it presents the actions of German policy makers in the Iraq crisis in the context of the changing transatlantic relationship generally. His title sums up his argument that "the serious possibility of a deepening and more permanent rift and the emergence of a relationship based on rivalry . . . are greater than at any time since the end of World War II"(p. 153). Szabo is too careful an analyst, however, to present only the worst-case scenario. The book is hopeful about future German–American relations in the sense that it gives significant

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causal weight to the personalities that provoked the Iraq war crisis. Ultimately, however, even when more diplomatic leaders are elected on both sides of the Atlantic, the relationship will have to change. Szabo argues that the golden age of German fealty to all American policies is formally over.

The book is anchored in a detailed analysis of the diplomacy leading up to the Iraq war. Based on interviews with insiders on both sides of the Atlantic, Szabo's book is an excellent complement to Philip Gordon and Jeremy Shapiro's *Allies at War: America, Europe, and the Crisis Over Iraq* (New York: McGraw-Hill, 2004), which focuses more attention on France. Szabo's careful empirical work yields unexpected nuggets in some places. For example, in early 2002, Germany's Gerhard Schroeder had hoped to forge a common EU position on Iraq but realized at the March 2002 Barcelona summit that "London and Paris were more interested in aligning with the United States than in shaping a common European position" (p. 19). The charge of political opportunism was more often leveled at France, but Szabo shows that Schroeder's political calculations during his reelection campaign were based on desperation, and that opposition to the Iraq war was probably what won him reelection (by 6,000 votes). Szabo is quick to point out, however, that ultimately, Schroeder's antiwar stance was hugely popular across all regions and parties in Germany, and that this democratic legitimacy was the basis for Germany's foreign diplomacy, even if it represented three significant breaks with tradition.

As good as the diplomatic account of the Iraq crisis is, the book's real strength comes from the chapters that analyze Germany's changing strategic culture and foreign policy ideas and contrast them with the shifting ideas in the United States. Unlike Robert Kagan, who believes Europeans adhere to international law and norms because they have no real (read: military) power, Szabo shows how those philosophies have emerged in Germany and produced the consensus for traditional raw power. His chapter on the Berlin Republic synthesizes philosophical, historical, and generational debates to argue that change in German–American relations was coming regardless of the Iraq crisis. There is a hint of ambivalence about these changes: he notes that Schroeder wanted to show a more self-confident Germany, willing to alienate the United States in important policy areas, but in a final chapter, he worries that the end of the close German–American relationship creates a renewed "German problem" for Germany's neighbors. Ultimately, that question is unresolved in Szabo's book, because it depends, as he writes, on "whether the European construction can and will hold." Szabo's skepticism about the EU's long-term viability shows him to be more an American analyst than German, but his book demonstrates that he has understood extremely well the German politico-cultural dynamic as it relates to the relationship with the United States.

DOROTHEE HEISENBERG
Johns Hopkins University

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Interagency Fratricide: Policy Failures in the Persian Gulf and Bosnia
by Vicki J. Rast. Montgomery, AL, Air University Press, 2004. 466 pp. Paper, $34.50.

This book is an inclusive study of some very difficult terrain: policy making in relation to the Persian Gulf War of 1990–1991 and the Bosnian conflict of 1993–1995. Vicki Rast is a Major in the Air Force, with extensive military credentials. She earned a Ph.D. in conflict analysis and resolution from George Mason University and is presently an associate professor of political science at the Air Force Academy.

The book is systematically developed and extensive in its treatment. Her work builds on that of Morton Halperin and Graham Allison in developing its orientation, and her access to the Washington bureaucracy and domestic and military analysts is both unusual and quite impressive.

The title of the book gives its message: "Interagency Fratricide" and "Policy Failures." The inability of decision makers to provide a broad conceptual context for their operations and to bridge the interagency gaps in mission, thinking, planning, and objectives may not be a new message but, given the contemporary relevance of the problems addressed, it is less than encouraging.

Rast examines the dynamics of interagency cooperation, the frictions and alternative visions and resources involved; the context that frames interagency policy making; and what she refers to as the crosscutting influence of both. The inability to achieve coordinated, comprehensive planning in even the most significant of areas, the basic theme repeated in the study, is tied to interagency conflicts. These she assesses in five areas: leadership, lack of strategic vision, differing organizing cultures, conflicting world views, and the failure to establish efficient and effective cross-institutional joint planning linkages.

Rast has a number of recommendations to better address the failures of cooperative efforts. These follow a number of efforts to provide institutional bridges. She proposes an overhaul of the processes of interagency decision making. The "risk-averse behaviors" of decision making and the general distrust and competitive drives imbedded in bureaucratic culture, despite institutional design intended to enforce greater cooperation, clearly are extraordinarily difficult to overcome. The costs involved in divided and fragmented decision making in areas fundamental to America's vision of a free and democratic world, seemingly the country's number one priority, are formidable. The question is: can such an integrated and cooperative, problem-oriented policy-making process be implemented? To understate, there is little evidence to date that such an objective is workable or can be achieved in the present bureaucratic climate.

The book is thorough and systematic, if, on occasion, approaching technical/administrative explanatory approaches. The bibliography, for those interested in related readings or research, is exceptional.

The study may best be suited for government officials or for classes in military affairs, conflict resolution, policy making, and public administration.

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Rast's study does provide a service, one intensively developed and systematically documented. Exercising an influence on bureaucratic decision making would be its ultimate contribution and the best measure of its success.

WILLIAM CROTTY
Northeastern University

The Enlargement of the European Union and NATO: Ordering from the Menu in Central Europe *by Wade Jacoby. New York, Cambridge University Press, 2004. 288 pp. $70.00.*

The first thing that must be said about this book is that the title is misleading. The book is not about the enlargement of the European Union and NATO per se. And even the subtitle does not clearly convey its focus. Rather, the book concerns the domestic institutional choices made in the 1990s and early 2000s by central and eastern European states, principally the Czech Republic and Hungary, to prepare for admission into the two regional organizations.

That said, the book does address an interesting set of questions. Why do states sometimes borrow or emulate existing institutional forms from abroad rather than rely on indigenous models and innovations? Through what processes does such emulation occur? And what are the effects of institutional emulation?

Wade Jacoby argues that the answers scholars have so far offered are insufficient. The literature has not adequately distinguished between different mechanisms of emulation and has placed too much emphasis on the roles of external factors. To answer these questions more satisfactorily, Jacoby first constructs two typologies. One concerns modes of emulation, which vary with differences in the amount of external pressure and the degree of faithfulness in replication of foreign models. The other concerns the outcomes of efforts at emulation, which vary with the extent of external demands (rule density) and the density of actors within the relevant policy sector.

Jacoby then develops what he terms an "embedded rationality" model that draws upon three distinct traditions of institutional theory: historical, rational, and sociological. Each perspective offers different hypotheses regarding the potential "motors" and "brakes" of emulation, which are integrated into a single framework for explaining variation in modes and outcomes. As he later notes, "Institutional theories add more by synthesis and juxtaposition than in isolation" (p. 197).

Much of the book consists of detailed case studies of five national policy areas—health care, consumer protection, agriculture, regional policy, and civilian control of the military/military professionalism—and two chapters that systematically relate the cases to the various strands of institutional theory. The geographical focus on the Czech Republic and Hungary constitutes a "most similar–most likely" research design that facilitates comparison of emulation across policy areas.

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To his credit, Jacoby is quick to recognize some of the study's limitations. For example, he notes that the research design may limit the generalizability of his findings. This limitation is addressed to some extent through the brief examination of four other country-policy sector cases from the region, which introduce variations in size (Poland), imperial administrative legacy (Bulgaria), geographic/political distance (Ukraine), and level of development (Sweden). At the same time, however, it remains unclear how broadly representative the cases are of the universe of potential policy areas. More generally, the book slights the logically prior issue of whether states emulate at all. Although mentioned, the choice of purely indigenous institutional development remains undertheorized.

Finally, this reviewer would welcome more discussion of possible links between the two typologies, which Jacoby admits "are not wholly independent" (p. 11). He recognizes that actor density in a policy area often influences elite choices about how faithfully to emulate foreign models, but he does not explore how important this factor might be, relative to others that can shape those choices. Likewise, one might expect to find a relationship between the density of the rules states are expected to emulate and the level of external pressure to do so.

Notwithstanding any such limitations, this book has much to offer students of comparative and international politics, and not just experts on central and eastern Europe. Anyone with an interest in the explication, application, synthesis, and extension of institutional theories will be richly rewarded.

JOHN S. DUFFIELD
Georgia State University

Caught in the Crossfire: Revolutions, Repression, and the Rational Peasant *by T. David Mason. Lanham, MD, Rowman and Littlefield, 2004. 315 pp. Cloth, $78.00; paper, $30.95.*

T. David Mason starts his book by stating: "Why would an otherwise ordinary person embark upon such an extraordinary course of action as taking up arms (with other like-minded ordinary people) against his or her own government? This question has puzzled me for most of my adult life" (p. vii). He is not alone in his puzzlement; the question goes to the heart of Olson's Paradox and has vexed those who have attempted to explain the rationale of collective action within the rubric of self-utility maximization. Unfortunately, if readers are expecting an answer to this hoary question, they will surely be disappointed.

In his book, Mason brings together the rational choice theory, the relative deprivation theory, and the resource mobilization theory and attempts to develop a "coherent story," which would provide a much-awaited insight into the "Paradox." The "Paradox" of collective action is simply that a revolutionary aims at attaining an overall social and political change, which by definition is

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a public good, the benefits of which cannot be restricted within the membership of those who strive to attain it. On the other hand, the participants of the movement bear the cost of participation, which can vary from loss of time to even the loss of life and liberty, whereas those who remain on the sidelines enjoy the benefits without paying any price. This violates the basic principle of economic rationality, according to which people facing the prospect of getting something for nothing will opt to do nothing. Hence, by this logic, those who take part in anti-systemic activities do so because they have some ulterior motive of private benefits—power, position, share of the loot, etc.—or they are either "irrational," or a bit more charitably, "a-rational."

In contrast to the rational choice theory, the relative deprivation theory relies on psychological factors of the actors. When their achievements do not match their expectations, they feel frustrated. Frustration leads to anger, anger to violence. Because the link between feelings of deprivation and political violence is neither direct nor automatic, the resource mobilization theory introduced the role of leadership and organizational capabilities to the explanation of collective movements.

Mason attempts to develop an integrated theory by combining the three broad theoretical frameworks to explain the peasant movement in third-world countries. There are, however, several problems with Mason's theoretical construct. First, the term "third world," a leftover of the Cold War era, is extremely amorphous and covers an incredibly diverse chunk of humanity. Mason glosses over their enormous differences by making a dubious claim that "the short answer is that their shared experience as colonies or neocolonial dependencies of European nations and the United States imposed an element of uniformity into the developmental paths of this otherwise widely disparate collection of social systems" (p. 58). If colonial experience is the sole defining factor for membership in the third-world community, we should note that not every country outside of Western Europe and North America was fully colonized, nor does the colonial experience of these countries show much homogeneity.

However, this problem of definition of the so-called third-world countries is minor compared to the conceptual problem of developing a rational choice model for the people living in these countries. The claim of economic rationality is that its basic assumption is impervious to history, culture, and societal norms. If we have a rational choice theory of mass rebellion for the Peruvians, should we have a different set of rational choices for African Americans or White Supremacists or the Red Brigades of Europe?

The problem for Mason is indeed daunting. Macur Olson himself saw no way out of the social dilemma and stated that the solution to his posed paradox, particularly relating to movements inspired by communism or religious faith, cannot be found in the logic of self-utility maximization and should be sought in psychology or social psychology (Macur Olson, *The Logic of Collective Action: Public Goods and the Theory of Groups*, Cambridge, MA: Harvard University Press, 1965, pp. 161–162). The primary difference between the rational choice

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theory and other structural theories is not that one relies on a micro-level theory and the others on macro-level explanations. The true difference rests with the fact that although rational choice theory makes an explicit and fundamental assumption about human nature, the others do not. Therefore, unless Mason offers a theory of human behavior that provides an alternative to the definition of economic rationality, he is merely serving a semi-cooked soup in which the ingredients are simply thrown in together without making a delicious meal.

Mason's problems are most glaring when he arrives at his findings that "any factors that (1) lower each actor's estimate of the chances of victory, (2) increase the rate at which both are absorbing costs, or (3) increase the estimated time required to achieve victory make a negotiated settlement relatively more attractive. Conversely, factors that (1) increase one actor's probability of victory, (2) decrease one actor's costs of victory, or (3) decrease the time required for an actor to achieve victory enhance that actor's likelihood of winning" (p. 194). These conclusions are neither specific to the third world nor particularly remarkable.

Although the book fails to achieve what it starts out to do, its strength lies in lucid and comprehensive explanations of the various theories of social movement, reflecting the author's many years of scholarship in this area. Therefore, despite its conceptual problems, the book should be a good reference for anyone wanting to learn about the theories of social movement.

DIPAK K. GUPTA
San Diego State University

Courting Democracy in Mexico: Party Strategies and Electoral Institutions *by Todd A. Eisenstadt. New York, Cambridge University Press, 2004. 372 pp. $70.00.*

The first extensively researched books exploring Mexico's protracted transition to democracy to emerge after Vicente Fox's historic defeat of the Institutional Revolutionary Party (PRI) are now being published. Todd Eisenstadt has set a high standard for those who will follow with his account of the evolution of electoral tribunals and the use by political parties of post-election "second round" negotiations to adjust electoral results. Meticulously researched and theoretically rich, Eisenstadt's book provides the most extensive account we are likely to see of the interaction between national-level elites—from both regime and opposition—and party activists at the state and local levels as the opposition parties began to seriously contest elections in the late 1980s and 1990s.

Eisenstadt's contributions to our understanding of Mexican democratization are threefold. First, he successfully distinguishes differences between elite-driven, pacted transition models—prominent in early cases such as Spain and

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which have thus far dominated scholarly discussions of democratization—and protracted transitions, in which opposition parties and electoral politics have played significant roles. In Mexico, post-electoral mobilizations by regime opponents—a long-standing practice whose use accelerated in the 1980s—preceded the introduction of formal electoral courts intended to adjudicate disputed election results. Because the independence of electoral tribunals was doubted during the early phases of Mexico's transition, the opposition parties resorted to mobilizations of disgruntled supporters to provoke "second-round" negotiations with the regime intended to yield patronage—for example, presidentially negotiated resignations of PRI gubernatorial "victors," replaced by new appointed office holders from the opposition. Regime leaders sought to follow a divide-and-conquer strategy when facing second-round challenges, usually yielding some concessions to the conservative National Action Party (PAN) while resisting the demands of the more intransigent, left-leaning Democratic Revolutionary Party (PRD).

Second, Eisenstadt calls our attention to the major roles that actors at the subnational level have played in Mexico's transition. Although an emerging scholarly consensus credits regional and local forces for propelling democratization, Eisenstadt provides a compelling argument about the interaction of local-level political conflict and national elite-level negotiations between the regime and the opposition. He carefully explores dozens of cases of state- and local-level electoral conflicts that rarely received more than passing mention by foreign reporters, arguing that local-level post-election conflicts mirrored deeper social problems in communities often dominated by political bosses aligned with the PRI. Fox's PAN effectively coordinated local-level post-election conflict and national-level negotiations with the regime to gradually increase its presence in government throughout the nation.

Third, Eisenstadt provides a detailed explanation of how the preferences of opposition parties regarding the transition process diverged and how those differences drove the democratization process. He carefully describes the PAN's disciplined strategy of simultaneously filing legal challenges in cases of disputed elections—thereby building a legal team able to contest electoral fraud in court once electoral tribunals became autonomous enough to compel the PRI-state to follow their decisions—and orchestrating post-electoral mobilizations and second-round negotiations. In contrast, the undisciplined PRD's activists at the local level frequently organized demonstrations even where they had little evidence of electoral fraud—sometimes hoping to win patronage positions as a palliative, more often simply expressing the outrage of local militants fed up with PRI rule—while the party flooded electoral courts with ill-considered and improperly filed protests.

Eisenstadt concludes, however, that the PRD's disruptive protests against electoral fraud played a key role in driving the PRI toward the moderate opponent, the PAN, which then ably steered the transition process forward. PAN cooperation in undertaking electoral reforms that leveled the playing field for

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the opposition parties and its success in gaining governing experience after winning local and gubernatorial elections set the stage for Fox's victory in 2000.

JOSEPH L. KLESNER
Kenyon College

Inside Putin's Russia: Can There Be Reform Without Democracy? *by Andrew Jack. New York, Oxford University Press, 2004. 362 pp. Cloth, $30.00; paper, $16.95.*

Andrew Jack has written an excellent overview of Vladimir Putin's first term as Russian President. Impressive for its fair and balanced (a phrase used without irony) coverage, and for its engaging writing, this book should find a particular audience among those looking for a thoughtful, non-academic overview of recent Russian political and economic developments.

Jack's answer to the question in the subtitle is a heavily qualified "yes." He describes Putin's Russia as a system of "liberal authoritarianism," by which he means one in which the bases for a free market economy are being imposed using non-democratic methods. Jack argues that Putin's principal goals in his first term were "consolidation, economic growth, and order," and that, given these objectives, he has been relatively successful, including in comparison with his two predecessors, Mikhail Gorbachev and Boris Yeltsin (p. 331). At the same time, Jack criticizes Putin for reversing many of the democratic gains achieved under Gorbachev and Yeltsin, and suggests that much of the economic progress of the last five years was due more to luck than to any bold vision or action on the part of Putin.

Even readers who disagree with Jack's overall assessment of Putin will likely find *Inside Putin's Russia* to be a very reliable guide to the twists and turns of Russian politics. Jack, the Moscow Bureau Chief for the *Financial Times*, arrived in Moscow shortly after the August 1998 economic crisis and just in time for the momentous year of 1999, when the Chechen war resumed and the relatively obscure Putin was catapulted into the presidency.

The first two chapters set the stage for the rest of the book by providing a social snapshot of contemporary Russia and a mini-biography of Vladimir Putin. Jack vividly highlights the multiple contradictions of post-Communist Russia, and the fact that Putin, by temperament, is more a KGB bureaucrat than a politician. The heart of the book consists of a series of chapters on the key issues confronting Putin during his first term, including Chechnya, his battles with the so-called oligarchs, his major initiatives in the political and economic spheres, and foreign policy. Throughout, Jack discusses important issues from a variety of angles. For example, his treatment of the mysterious series of apartment bombings in the fall of 1999 that, together with the August 1999 attack by Chechen fighters on the neighboring republic of Dagestan, precipitated the second Chechen war, is both thorough and responsible.

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Jack is well aware that the seeming stability achieved under Putin may be fleeting, noting toward the end of the book that "the contradictions of economic liberalism and political authoritarianism will eventually clash" (p. 339). Indeed, one could ask whether the word liberal really applies when media freedoms have been curtailed, meaningful political pluralism has been undermined, and property rights remain highly insecure. Furthermore, political scientists have shown fairly conclusively that authoritarianism in developing countries is at least as likely to end in corruption and failure as in some sort of state-led economic miracle.

Jack, of course, is not aiming for broader generalizations of this sort. To the extent that he engages in comparison, it is primarily to the Soviet past and Russia's immediate neighbors. He reminds us that if Putin's Russia is a disappointment in Western eyes, compared to its not-too-distant Soviet past, it is a big step forward, including for many (but far from all) of its own citizens. For those looking to understand the road Russia has traveled under Putin, and where it may be going, *Inside Putin's Russia* provides a portrait that is simultaneously clear, complex, and generally convincing. Highly recommended.

BRIAN D. TAYLOR
Syracuse University

Democracy in Modern Spain *by Richard Gunther, José Ramón Montero, and Joan Botella. New Haven, CT, Yale University Press, 2004. 478 pp. $45.00.*

This book persuasively makes the case that "Spain is no longer different" and is now a normal, consolidated, West European democracy whose workaday politics can be explained using the same analytic tools found useful by students of the rest of the region (p. 397). It fits the classic template of an "area studies" book by examining so many aspects of politics in the country—in this case, regime origins, party politics, voting behavior, political culture, center–periphery arrangements, and policy-making processes—that diverse theoretical frameworks suited to the study of very different phenomena are necessarily brought to bear as the chapters unfold. The end result is a thorough visitation of the most prominent features of political life (with the notable exception of political economy) but no neat, cumulative theoretical tale. This is true even when the authors focus on a single question, as they do in the first half of the book by asking why Spanish democracy stabilized after 1977 after it had not done so in the 1930s. Their answer draws on diverse explanatory traditions within the study of democratic transitions and consolidation, including theories of economic and social modernization, social cleavages and conflict regulation, political culture, institutional design, the behavior of political elites, and voluntaristic leadership. This lends the presentation an evidentiary richness that will make this book a valuable resource for students of Spain. But it can also be frustrating,

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as when the authors try to summarize their core argument: "The international context of the late 1970s was dramatically different from that of the 1930s. . . . The Catholic Church had also been transformed. . . . The socioeconomic modernization of Spain greatly influenced processes of political change. . . . The institutional context within which this process unfolded also greatly influenced the course of the transition and democratic consolidation. . . . Respect for the chain of [military] command proved to be crucial for the survival of Spain's fledgling democracy. . . . The most direct and decisive roles in consolidating the new democracy were played by party elites" (pp. 107–110).

It therefore remains unclear in this account to what extent Spain's dramatic post-1945 socioeconomic change simply generated a new, less polarized political environment that heavily favored democracy, whether elites shaped their context more than they were constrained by it, and whether culture operated autonomously from other structural factors. For example, why conclude that elites helped create a democratic culture after 1977 if they could not create an authoritarian one under Francisco Franco? Did degrees of polarization among elites exist independently of polarization at the mass level? In the end, a key proposition of the authors—that democratic stability was structurally underdetermined in the late 1970s and therefore that elite choices were crucial—is asserted but not persuasively developed or defended (pp. 77–78). At times, theoretical terms seem to serve the function of organizing (and, occasionally, as with "path dependence," of adorning) the discussion rather than of actually guiding and disciplining causal analysis.

The book's second half shifts to major political events after democratization, especially voting preferences, dynamics in the party system, negotiation of uneven and evolving degrees of constitutional decentralization, and processes of public policy making. Necessarily, a series of explanatory tools and terms are invoked, and the reader is provided with a carefully researched and well-organized overview of a very wide array of developments. The picture emerges of a fully democratic polity, whose voters congregate slightly left of center, and whose party leaders are competitive but remain marked by the recent-ness of the creation of the system of liberties that permits them to operate, and hence conscious of certain responsibilities they have to it. This book is a rich, if partial, guide to that polity.

GERARD ALEXANDER
University of Virginia

Human Rights in Russia: A Darker Side of Reform *by Jonathan Weiler. Boulder, CO, Lynne Rienner Publishers, 2004. 165 pp. $49.95.*

In the last decade, news from Russia has most often been bleak and disheartening. Life expectancy has plummeted, crime and violence have increased, tuberculosis and other diseases are rampant. The coincidence of these worsening

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life conditions for many ordinary citizens with the start of democratization has given rise to doubts among Russians as to whether democracy, especially when accompanied by marketization, promotes human rights. In his provocative study, Jonathan Weiler takes seriously the concerns of the most vulnerable Russians.

On the basis of the observation that political change in Russia has coincided with worsening physical security for many citizens, Weiler asks why Western observers have generally spoken of human rights abuses there only in relation to atrocities committed by soldiers in Chechnya and very occasional persecution of environmentalists and scientists for allegedly sharing classified information. Weiler aptly notes that "when a state *perpetrates* violence, it is a presumptively political, or 'public,' act. When a state *countenances* violence, it is viewed differently, the problem that scholarship is most likely to overlook" (p. 19). Weiler seeks to remedy this oversight by paying attention to what he dubs "life integrity violations," meaning physical violence in terms of "imminent threats to bodily integrity, including beatings, torture, murder, rape, and egregious forms of sexual harassment" (p. 3). He looks specifically at the conditions of prisoners, both those in overcrowded pre-trial detention and those already in labor camps, at attitudes toward domestic violence, and at treatment of draftees and others at the mercy of faltering state institutions. He finds that lack of resources, often combined with bureaucratic indifference, leads everywhere to poor observation of laws.

Weiler argues convincingly that the consequences of state incapacity are dire for the most vulnerable social groups. His book paints a picture of contemporary Russia that is both informative and disturbing. He is careful also not to give in to unproductive speculation as to what sorts of human rights violations—deliberate overtly political ones or those committed by omission—are worse. Instead, Weiler lays out a whole range of types of violence, some sanctioned by authorities, others simply ignored.

Ultimately, however, Weiler raises more questions than he answers. Is the current state of violence in Russia really due to poverty or to the market? Is decline in the powers of the state or some flaw inherent in democratization to blame for lack of accountability? Comparisons with other post-Communist states might provide clearer evidence as to the effects of democratization versus those of declining state capacity. One wonders about the contrast with Belarus, for instance, where little market reform and even less democratization have occurred: are life integrity violations coexisting there with traditional forms of political persecution? Also, although Weiler derives much of his information about abuses from reports by nongovernmental organizations, he does not offer much account of the work of civil society organizations. It may be that the weakness of civic groups in Russia is the flip side of state weakness when it comes to explaining lack of bureaucratic accountability.

Weiler has made a bold start at tackling tough and important questions about the relation between democratization, marketization, and physical secu-

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rity. As Russian President Vladimir Putin concentrates on strengthening the state, we in the West have been worrying about the consequences for democracy. Weiler's book is a timely reminder that we should also take heed of the consequences of increasing state capacity for ordinary Russians and their ability to live safely.

KATHLEEN E. SMITH
Georgetown University

Al-Qaida's Jihad in Europe: The Afghan–Bosnian Network *by Evan F. Kohlmann. Oxford, UK, Berg Publishers, 2004. 288 pp. Cloth, $64.95; paper, $19.95.*

Radical Islamic fundamentalism poses the most serious terrorist threat in the world today. Precedents for this ideology go back to the thirteenth century, but its modern version originated in 1924, when secular republican forces led by Mustapha Kemal Attaturk launched a campaign of Westernization in Turkey. The traditionalist reaction to Westernization coalesced four years later in the Muslim Brotherhood. Since then, large segments of the Islamic world have been engaged in a culture war, with increasingly radical groups following in the wake of the Muslim Brotherhood and updating the indictment that the materialistic West threatens to defile the religious commandments of the Qur'an. Al Qaida, a loosely connected network of groups with terrorist cells in more than sixty countries, has emerged in the last twenty years as the supreme manifestation of radical Islamic fundamentalism. About its operations in Europe, Evan F. Kohlmann has written an illuminating book.

Attracting *mujahideen*—or holy warriors—from all over the Islamic world, the Soviet–Afghan war of the 1980s provided the catalyst for al Qaida. Osama Bin Laden organized and helped to finance the organization, which, after the Soviet defeat, looked to the civil war in Bosnia as another opportunity to liberate an Islamic people subjugated by Western oppressors, in this case the Serbs. Once again, *mujahideen* heeded the call of an Islamic people in distress. Hoping to turn the Balkans into a training ground for the next generation of holy warriors, Bin Laden planned to establish a base in Bosnia for operations in Europe against al Qaida's principal enemy, the United States. By 1995, some ten thousand of his followers had joined forces with the Bosnian Muslims.

In that same year, Algerian fundamentalists trained by al Qaida in Bosnia brought terror to the heart of western Europe with two bombing attacks in Paris. On 25 July, an explosion on a commuter train left ten dead and one hundred and sixteen wounded. On 17 August, another bombing occurred in a metro station. Kohlmann is at his best in exhaustively reporting the details of such terrorist episodes. He has compiled prodigious research about the perpetrators and their support networks. Moreover, he never loses sight of the strategy behind the individual attacks. Europe, like Israel, figured in Bin La-

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den's mind as a cat's paw of the United States. A straight line that Kohlmann says went unobserved, in essence, by official Washington ran from Bin Laden's 1998 *fatwa* against the United States to September 11.

Kohlmann's book also rises to the level of genuine historical analysis on two vital questions about the context of terrorism today. First, he stresses the importance of social and economic factors in the motivation of Islamic terrorists, particularly for those *mujahideen* from the north African ghettos throughout western Europe where "soaring unemployment and systematic racial intolerance against Arabs . . . provide ideal breeding grounds for youths to be brainwashed in radical Islam" (p. 62). Second, he explains why al Qaida, despite some early successes, ultimately suffered defeat in Bosnia. The short-term alliance between the Bosnian Muslims and the *mujahideen* fell apart after the war because of Bosnian indifference toward Islamic fundamentalism. Wanting only to rid their land of the Serbian military threat, the Bosnian Muslims parted company with the *mujahideen* on the issue of permanent *jihad* against the West. They did not enlist for the fundamentalist campaigns in Chechnya or Central Asia. One conclusion to be reached about al Qaida's defeat in Bosnia, although Kohlmann himself does not reach it, is that Islam, far from being simply a culture that "went wrong," contains diverse cultures, the least fanatical of which the West must learn to engage in constructive dialogue.

RICHARD DRAKE
The University of Montana

Landing Votes: Representation and Land Reform in Latin America *by Nancy D. Lapp. New York, Palgrave Macmillan, 2004. 212 pp. $59.95.*

Is democracy a tool for empowering the masses, or is it simply a façade that obscures the hegemony of a wealthy elite? Needless to say, this is one of the fundamental debates in our discipline. In her study of the electoral politics of land reform in Latin America, Nancy Lapp comes down firmly in favor of the first view. She argues that the history of democratic land reform in Latin America shows that voting "matters" for the rural poor, at least under certain institutional conditions.

Lapp sets out to explain a historical coincidence: the fact that land reform initiatives by democratically elected Latin American governments have generally been introduced at the same time as reforms that expanded the suffrage, particularly those that enfranchised the rural poor. This, she argues, is no accident. Land reform measures coincided with the extension of the suffrage because politicians sought to use land redistribution to win over new voters in the countryside.

Lapp is also concerned about explaining why some of these programs resulted in significant land redistribution whereas others did not. The answer, she believes, lies in the character of the party system and its effects on electoral accountability. Lapp employs the distinction that Scott Mainwaring and Timo-

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thy R. Scully make between "institutionalized" party systems, in which parties are disciplined and programmatic, and "inchoate" systems, in which they are undisciplined and strongly patronage-based (Scott Mainwaring and Timothy R. Scully, eds., *Building Democratic Institutions: Party Systems in Latin America*, Palo Alto, CA: Stanford University Press, 1995, pp. 1–34). Where the party system was institutionalized, accountability was clear and governments made good on their land reform promises. Where an inchoate party system was in place, there was little accountability of politicians to the voters. The consequence was little or no land reform.

Evidence for these arguments comes from a cursory discussion of eleven countries, plus detailed case studies of three of those countries, Chile, Venezuela, and Brazil. In analyzing these cases, Lapp considers one potential alternative explanation of the timing of land reform measures: international influence, mainly in the form of U.S. aid provided under the Alliance for Progress.

Although one can quibble with Lapp's exclusive focus on external influence as the alternative hypothesis, her argument regarding the causal relationship between land reform and the extension of the suffrage is convincing. Land reform roughly coincides with suffrage expansion in almost all of the cases, and Lapp's qualitative analysis provides solid evidence for a causal connection. The argument, as the author notes, had previously been made in the case of Chile, but she does an admirable job of demonstrating its more general validity. This is a significant contribution to our understanding of the politics of land reform in Latin America.

With regard to Lapp's argument that the party system was the major determinant of whether land reform was actually implemented, the cases break down as predicted but the qualitative analysis provides mixed evidence. For example, her assertion that the lack of disciplined party support was the key factor behind the failure of land reform in Brazil in the 1980s is debatable. President José Sarney required no legislative action to implement significant land reform in the early years of his term, and yet he failed to do so. The answer to this question would appear to be substantially more complex than the one Lapp offers.

The arguments made in this book are carefully laid out and the evidence marshaled to support them is, in general, solid. The institutional concepts are familiar, but their application to a critical policy area is nonetheless enlightening. Students of electoral politics and land reform will find much of interest here.

GABRIEL ONDETTI
Southwest Missouri State University

Mayors and the Challenge of Urban Leadership *by Richard M. Flanagan. Lanham, MD, University Press of America, 2004. 230 pp. Paper, $33.00.*

Richard Flanagan's central thesis is that timing is everything—or at least critically important—in determining whether America's big-city mayors succeed

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or fail as political leaders. He explores this idea through a comparative analysis of twelve case studies of mayoral leadership ranging from Fiorello La Guardia's mayoralty in New York (1934–1945) to the rule of "new breed" mayors Dennis Archer (Detroit), Ed Rendell (Philadelphia), and Rudolph Giuliani (New York) in the 1990s.

Flanagan briefly reviews and rejects rival theories of executive leadership that stress the importance of personality attributes (values, skills, styles), structural constraints (government fragmentation, limited resources), or non-temporal contextual factors (political culture, informal alliances) as key. Drawing upon recent work by presidential historians, he applies a life-cycle concept of "political time" (p. 13) to the study of mayoral power. On the assumption that the recurring cycle of regime formation, consolidation, and decay observed at the level of national government also holds at the local government level, Flanagan argues that the challenges (and opportunities) facing a newly elected mayor will vary depending on whether he or she is affiliated with or opposed to the existing regime and on whether that regime is at a cyclical stage that is vulnerable or resilient to change.

Mayors who are opposed to a vulnerable regime have the opportunity to practice "reconstructive" leadership, that is, to tear down existing arrangements and create a new political order (p. 13). Under this heading, Flanagan studies the mayoralties of Chicago's Richard J. Daley (1955–1976) and Pittsburgh's David Lawrence (1946–1958), followed by the less dramatic examples provided by Los Angeles's Tom Bradley (1973–1993) and New York's Robert F. Wagner (1954–1965).

Mayors who are opposed to a resilient regime must practice a form of "preemptive" leadership that exploits divisions within a still-robust regime to establish an independent power base and pursue a "third way" to achieve modest policy reforms (p. 14). Flanagan places all the other case studies in this category, including four judged by a panel of urban historians and political scientists to be the worst big-city mayors in the modern era: Philadelphia's Frank Rizzo (1972–1980), Cleveland's Dennis Kucinich (1977–1979), Los Angeles's Samuel Yorty (1961–1973), and Chicago's Jane Byrne (1979–1983). Flanagan autopsies these four mayoralties with forensic zeal in chapter 4 as failures of preemptive leadership. He then devotes all of chapter 5 to Mayor La Guardia as an exemplar of preemptive leadership at its best.

The concluding chapter is a thoughtful and searching assessment of the modern American mayoralty. It features detailed studies of the more polished and successful forms of preemptive leadership practiced by the "new breed" mayors Archer, Rendell, and Giuliani. The chapter ends—rather too abruptly, in my opinion—with a preliminary assessment of New York's incumbent Mayor Michael Bloomberg, whom Flanagan describes as "practically a Weberian 'ideal type' expression of the [preemptive leadership] form" (p. 190).

Overall, I think Flanagan's borrowed life-cycle typology does little to illuminate the detailed case studies or advance our theories of mayoral leadership.

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Only two of the four cells in the typology (those classifying opponents of existing regimes) are explored with case studies, and the case selection method itself seems arbitrary. Another drawback of using this scheme to organize the book is that it scrambled the chronology of case narratives, placing the study of Bradley's mayoralty before that of Yorty's, for example, and Wagner's before that of La Guardia's. Despite these reservations, however, I recommend this book for its substantive contents. The case studies themselves, removed from their theoretical wrapper, are consistently interesting, engagingly well-written, and instructive.

RICHARD E. DELEON
San Francisco State University

Politics, Persuasion, and Educational Testing *by Lorraine M. McDonnell. Cambridge, MA, Harvard University Press, 2004. 248 pp. $45.00.*

Lorraine McDonnell's volume travels two broad avenues of investigation: hortatory policy and the testing movement in public education. Hortatory policy uses persuasion as the instrument to prompt policy targets to behave in accordance with the aims of a given policy; it is to be distinguished from the two other major types of policy instruments, "inducements" and "mandates," which use material rewards and sanctions, respectively (p. 23). According to McDonnell, although the literature recognizes persuasion as a policy tool, little theoretical or empirical work has been devoted to fostering a deeper understanding of its features. She undertakes the task of beginning to fill these gaps in understanding by testing the theory of hortatory policy against the empirical data provided by state educational testing policies.

She examines data on the 1990s implementation of new testing policies in three states—California, Kentucky, and North Carolina—focusing on the loci of implementation in a descending order of generality, from the state level to the district and school levels to the classroom level. At each level, she tests the ways in which hortatory policy is theorized to operate in terms of the fit with the empirical data on policy effects. The specific analyses are too detailed, nuanced, and numerous to be discussed here. Together, they provide convincing evidence for the three general conclusions McDonnell draws in her concluding chapter.

First, educational testing policy must be viewed through a political lens. The case studies from California, Kentucky, and North Carolina demonstrate that hortatory strategies tied to curricular values and the (democratic) demand for transparency in public education are required, even if the strategies of inducements and mandates are emphasized. Furthermore, as high-stakes testing has taken firm root with the passage of No Child Left Behind in 2001, emphasis has shifted from pedagogical theory underlying state standards and technical issues about the validity of assessments to the more explicitly political aim of closing the "achievement gap" to achieve greater fairness.

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Second, hortatory strategies are effective in the educational testing policy arena, but only within certain limits. In particular, appeals must be to values held strongly enough to motivate action but not so strongly as to polarize policy targets. Values must be sufficiently general to garner wide support but not so general as to provide too little guidance. Finally, values-based appeals (hortatory strategies) typically must be combined with the strategies of inducements and mandates.

Third, the findings from educational testing policy may be used to inform the general development of the theory of hortatory policy. Among the generalizations McDonnell proffers are: some policies are better suited for hortatory strategies than others; the likely responses of all groups potentially affected should be taken into account at the outset; and hortatory policies often have hidden costs for those who must implement them. Paying attention to each of these increases the likelihood that hortatory policy will succeed.

McDonnell masterfully moves back and forth between hortatory policy and student testing policy in a way that significantly illuminates both. Her volume makes an important contribution to the policy literature. It is well worth reading.

This is not to say the analysis is without problems. The most outstanding is its marked technocratic bent. McDonnell's primary emphasis is on how "policy elites" employ policy "tools" or "instruments" to cause "policy targets" to embrace and implement policies. Little is provided by way of how stakeholders might be engaged in democratic deliberation about the values underlying policies, or why they should be. The values underlying policy initiatives—in this case, high-stakes testing as the means to hold schools publicly accountable—are taken as pretty much given. This makes it difficult to get a foothold within McDonnell's analytic framework from which to challenge the status quo.

KENNETH R. HOWE
University of Colorado at Boulder

The Politics of Public Housing: Black Women's Struggles Against Urban Inequality *by Rhonda Y. Williams. New York, Oxford University Press, 2004. 306 pp. $29.95.*

Appearing in the epilogue of this important book is a photograph of a large group of people cheering the 1999 implosion of Murphy Homes, one of Baltimore's high-rise public housing projects. What was once seen as the solution to the limited housing options for working-class white and black residents had now become a symbol of poverty and urban decline. According to Rhonda Williams, housing officials who attended the event, including U.S. Department of Housing and Urban Development (HUD) secretary Henry Cisneros, "spoke of ruined lives, ravaged communities, and a new day on the horizon" (p. 237). It is difficult to see what that new day will bring for low-income urban residents

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seeking affordable housing, given the current administration's desire to cut the HUD budget and eliminate many programs that have been designed to support the housing needs of the poor. What is clear is that the history of public housing is a complex one that deserves scholarly attention. Rhonda Williams traces the development, growth, and decline of federal support for low-income housing, highlighting the dynamics of race, class, gender, urbanization, and white flight to suburbia. Williams offers a thick description of the history of public housing by including the testimony and struggles of those who lived in the low- and high-rise buildings that are now viewed as an eyesore by many urban dwellers.

Williams's rich analysis centers on the experiences of residents in the public housing projects in Baltimore, Maryland. She captures the hopes and dreams of those who fought for the right to safe and affordable housing. While residents' activism on behalf of their communities did lead to some important improvements in public housing, the demolition of many of these buildings seems to indicate the failure of their efforts. While the demolition of many public housing complexes were occurring or in the works, 23,000 people were on a waiting list for public housing in Baltimore in 1994. However, the long-term prognosis for access to affordable housing for working-class and poor urban residents does not look very promising. But despite these grim realities, what many accounts of the rise and fall of public housing leave out are the heroic tales of women residents who fought on behalf of themselves, their families, and their neighborhoods to turn the concrete buildings and asphalt grounds into inviting homes and vibrant communities.

The introductory chapter lays out the goals of the study and explains the significance of locating the study in Baltimore. The politics of racial discrimination and segregation is woven throughout the history of public housing. Also evident throughout the stories that Williams chronicles is the significance of government-subsidized housing in shaping residents' belief that decent living conditions were a right of citizenship.

Chapter 1 describes the pressures that led to the establishment of public housing, including the swelling of Baltimore's population. Racism increased as a factor limiting housing options for the growing number of African American residents. Public housing became one solution, one that institutionalized segregation and racial discrimination. With a sense of pride in their new homes, tenants established resident councils and other organizations to foster a sense of community.

Chapter 2 focuses on the development of housing during the 1940s. During this period, housing for defense workers took priority. Racism continued to shape black residents'—including defense workers'—access to public housing. However, both black and white residents who were able to get into public housing faced "shoddy workmanship" and "inadequate services" (p. 63). Following the war, the federal government mandated the eviction of "over-income" families, and in May of 1946, 41 percent of Baltimore's public housing tenants were evicted.

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Chapter 3 emphasizes the growing poverty of Baltimore's postwar population. Williams notes that "by 1964, single-parent families represented 40 percent of the households" and more than 60 percent of these families received public assistance (p. 106). Segregation of white and black residents continued throughout the 1950s and 1960s, and efforts to desegregate public housing fueled white residents' protests and led to episodes of violence. Despite desegregation efforts, by "the late 1960s, all of the inner-city public housing complexes, even those formerly white, were predominantly black" (pp. 106–107).

Chapter 4 highlights black women residents' "fight against disrepute" (p. 124). A great deal of their activism focused on challenging the housing authority and police for their neglect of public housing. During the late 1960s and 1970s, activists demanded a greater role in decision making and participated in civil rights, welfare rights, and other struggles. In chapter 5, Williams details the importance of the War on Poverty, especially the Community Action Agencies, in providing a vehicle for women's participation in public policy as employees and resident representatives to tenant councils. Chapter 6 explores the challenges faced by resident activists and demonstrates the significance of the coalition of radical groups such as the National Welfare Rights Organization, Union for Jobs, or Income Now in broadening the demands and strategies of the housing activists.

In the epilogue, Williams provides an update on the state of public housing in Baltimore and concludes that despite the demise of many of the housing projects, women's activism on behalf of safe and affordable housing has had important, long-lasting effects on women's empowerment and public policy. This is an important book that should be read by policy makers, activists, and scholars alike. The story of public housing is one that needs to be remembered. It is a story that captures the human costs of disregard for the poor as well as the dignity and strength of those who fought for "safe and sanitary homes, and to gain greater independence from government control" (p. 242).

NANCY A. NAPLES
University of Connecticut

More Equal Than Others: America from Nixon to the New Century *by Godfrey Hodgson. Princeton, NJ, Princeton University Press, 2004. 384 pp. $29.95.*

Almost thirty years ago, British journalist Godfrey Hodgson published an interpretive history of this country as it passed from the end of World War II to the presidency of Richard Nixon—*America in Our Time: From World War II to Nixon, What Happened and Why* (New York: Vintage Books, 1995) It was an oddly hopeful assessment of society and politics in the United States, written at a point when few Americans felt hopeful at all. Watergate, defeat in Vietnam, racial discord, and the energy crisis had left the liberal consensus in tatters

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and our national self-confidence foundering. But Hodgson argued that our misfortunes had taught us priceless lessons about the limits of our power, our economy, and our government. They had compelled us to confront our own failings as a society aspiring to justice and freedom. We would get better.

Now, a generation later, Hodgson has abandoned his hopes and delivers a relentless indictment of an America grown, once more, far too sure of itself. In *More Equal Than Others*, he argues that a wave of right-wing triumphalism has overtaken the country since the Soviet Union's death from exhaustion. In its train, it has brought us a sanctification of the unfettered market, an intensification of Americans' long-standing contempt for government, and—most appallingly—a complacent acceptance of unprecedented inequalities in wealth, education, and opportunity.

The political changes that made all of this possible, says Hodgson, began with the Voting Rights Act of 1965, which delivered the solid Democratic South into the hands of the Republicans, and helped to make their party solidly conservative. This change, in turn, created a political vehicle for a resurgent conservative ideology. Finally, the conversion of politics into a media industry requiring heavy capital investment helped to ensure that neither party would stray too far from the wealthy. Instead of striking out against the new conservatism, Democrats trimmed their sails.

The new political order, claimed the conservatives, freed the market to create a new technology that drove a new, recession-proof economy. In fact, says Hodgson, the new technology of the Internet and e-marketing were products of government-sponsored research. The billionaires of the New Economy were geniuses in marketing, not technological innovation. The economy itself proved to be as fragile as a soap bubble, and even while it floated aloft, it left the great majority of American workers stuck at the wage levels of the 1970s. The social democratic economies of Europe achieved higher average incomes and greater equality while America's new, suburban society made it possible for the prosperous to enjoy not just exclusive neighborhoods but their own political jurisdictions, in which public services and education were far superior to those accessible to their less-fortunate fellow citizens.

Hodgson's indictment is, for the most part, a true bill. He is a bit less convincing when he tries to explain how we came to this pass. The free-market right may have had a hand in our slide from democracy toward aristocracy. But the decline of American manufacturing and the restructuring of the economy probably share the blame, and the decline of American liberalism may be more than a matter of Democratic timidity and Reaganism run amok. Hodgson notes the curious fact that some of the most fervent believers in the conservative gospel are residents of the South and Midwest who live on the underprivileged side of the new economy. They may envy the new corporate aristocrats, but they actively dislike the liberals of the country's coastlines, even though they would profit from liberal economic policies. They resent the liberals as effete sissies who have no respect for white, working-class churchgoers from mid-America.

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It is no coincidence that the most successful Democratic presidential candidate of the post-Nixon era was the one who could most plausibly claim to have risen from their midst. Liberals will have to offer something more than money to win back the working class—not just "values," but a conception of the country that elevates Americans above their mediocre circumstances. Hodgson may be right to dismiss American exceptionalism, but even he concedes that we are exceptional for thinking that we are exceptional. We may have become a crassly commercial society of consumers, but we remain a nation of believers.

MATTHEW A. CRENSON
Johns Hopkins University

The Making of Environmental Law *by Richard J. Lazarus. Chicago, IL, University of Chicago Press, 2004. 318 pp. $35.00.*

Late last year, two thirty-something political strategists caused a great deal of consternation and angst among the environmental community by releasing an essay boldly titled "The Death of Environmentalism" (available at http://www.grist.org/news/maindish/2005/01/13/doe-reprint/). In it, the progressive upstarts argued that mainstream American environmentalism suffers from a narrow obsession with technocratic policy approaches to environmental problems, an inability to articulate a compelling, affirmative moral vision of environmental progress, and a professional insularism that discourages effective coalition building. Not long after this essay appeared, Georgetown law professor Richard Lazarus, a leading participant in and observer of developments in environmental law over the last twenty-five years, released a book in which he sought to explain the rise of modern American environmental law, document its accomplishments and failures, and assess its potential for reinvention in the face of new and profound challenges.

The near-concurrent release of these two publications was unfortunate, because the former authors could have learned much from the latter. In just over 250 pages of text, Lazarus introduces the uniquely challenging scientific nature of environmental problems, the daunting political, economic, and legal obstacles that further confound their resolution, and the accumulated wisdom that has been gained from three and a half decades of modern environmental regulation, despite such monumental difficulties. Given his own eminence within the field of environmental law, one would expect to glean fascinating "insider" moments from Lazarus's telling of its history, and the author does not disappoint. What might not be expected by those unfamiliar with his scholarship, however, is the great skill with which Lazarus plumbs insights from disciplines outside of law. In two exhilarating passages, for instance, the author provides a cultural history of the public's dramatically evolving conceptions of time and space over the previous century, demonstrating both the changes that have helped to generate modern environmental law and those that ultimately may undermine it (pp. 54–66, 208–218).

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Similarly adept sections of the book introduce the reader to contemporary ecology and the workings of complex, dynamic biological systems (pp. 1–15), to the political economy of legislation and regulation in the federal system (pp. 29–42), to the peculiar disaggregated governance structures found in international environmental law (pp. 145–149), and to the various scientific and economic issues at stake in the choice of regulatory instruments (pp. 185–207). In part because of this sheer breadth of coverage, Lazarus's highly accessible and enjoyable book should be considered by anyone seeking an introduction to environmental law and policy for classroom use.

Two additional elements of *The Making of Environmental Law* deserve mention. First, Lazarus notes that although "environmental law's obituary in the United States has been written repeatedly during the past three decades," the field has proven "surprisingly persistent" (p. xii). In fact, Lazarus notes that some high-profile reform efforts, such as the Reagan administration's desire to "bring EPA to its knees" (p. 101) or the Gingrich Republican Congress's promise to offer the business community "regulatory relief" (p. 129), actually may have led to stronger support for environmentalism and more stringent environmental laws than existed before the attempted dismantlings.

Second, Lazarus also documents the founding and rise of a professional movement to support conservative intellectualism and to promote conservative ideals within public discourse, including ideals that are strongly at odds with the goals of environmental law (pp. 94–97). This movement can be traced to a memorandum written to the leadership of the U.S. Chamber of Commerce by soon-to-be Supreme Court Justice Lewis Powell in 1971. In this now-legendary memorandum, Powell urged the founding of conservative think tanks, research centers, endowed professorships, scholarly journals, student groups, media organizations, and other tools for promoting the ideology of "American Free Enterprise." As Lazarus notes, Powell's call for long-term intellectual investment was answered by several prominent, wealthy conservatives, such as Richard Scaife and the leaders of the John M. Olin Foundation. Their efforts to consolidate conservative power and to reshape American politics were so successful that, by the mid-1990s, "[f]or the first time in the three-decade-long history of modern environmental law, consensus legislation was no longer a politically viable option" (p. 153).

Lazarus concludes his book by openly questioning whether environmental law—despite its demonstrated historical resilience—will be able to withstand the "intellectual, scientific, and economic counterweight to environmentalism" (p. 250) that conservatives have funded and nurtured over the past three decades. Which brings us back to "The Death of Environmentalism." The authors of this essay correctly recognize the cohesiveness and clout of the forces aligned against progressive causes, but they simultaneously fail to appreciate the factors that render environmental law distinct from, and difficult to fuse with, other elements of the social democratic platform. A common enemy might easily produce a common defense, but forging a common offense generally requires much

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greater alignment of interests, values, and methods. By offering such an extraordinary interdisciplinary account of the unique challenges of environmental law and politics, *The Making of Environmental Law* also provides a humbling but necessary guidebook for those who seek to re-situate environmentalism within the changing American political landscape.

DOUGLAS A. KYSAR
Cornell Law School

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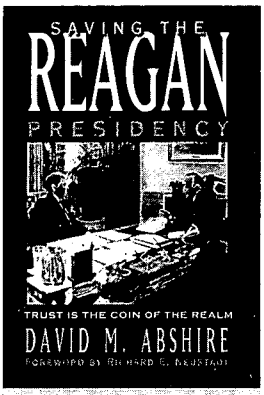

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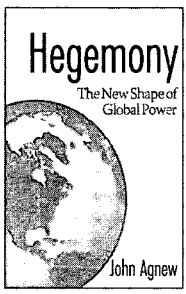

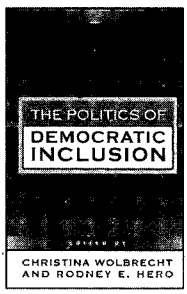

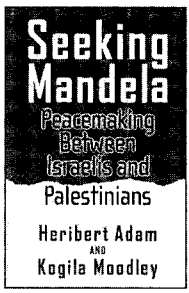

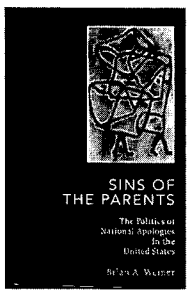

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